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ABSTRACT

This document is intended to give students an overview of laws in Wyoming. Subjects covered include civil and criminal law; courts in Wyoming; juvenile law, juvenile court procedure; rights of children; family law; employment law; automobile-related law; laws affecting the schools; and citizenship rights and responsibilities. The laws and courts of Indian tribes within the state of Wyoming also are presented. A glossary of legal terms concludes the document. (RJC)

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LAW IN WYOMING

SO 024 500

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LAW IN WYOMING

COURTESY OF

THE WYOMING LAW-RELATED EDUCATION ADVISORY COUNCIL

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The Wyoming Law-Related Education Council is comprised of lawyers, teachers, a student and business persons. The basic purpose of the council is to enable as many Wyoming students as possible to develop the knowledge and skills necessary to foster both better citizenship and career-decision making, through the study of the law, the legal process, the legal system, and law-related careers.

It is with regard to this mission statement that the council has revised Law in Wyoming. Law in Wyoming was first developed in 1976 due to the combined efforts of Laramie County School District #1 and the Laramie County Bar Association. The information contained in this revised edition is intended to give the reader an overview of laws in Wyoming. However, it is not meant to provide specific legal advice. The notebook is current through May of 1993. Remember that the law does change. If you need specific legal advice contact an attorney.

The Wyoming Law-Related Advisory Council would like to thank the following people for their time and effort in developing this notebook:

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I. GENERAL INFORMATION ABOUT WYOMING LAW

THE ORIGINS OF WYOMING LAW

There are two great legal systems existing in the world today: the common law system in the United States and Britain, and in former British colonies such as Canada, Australia, and New Zealand; and the civil law system, in the remainder of Europe, in Asia, Africa, and Central and South America.

Wyoming is part of the common law system. The common law system originated in England in the centuries after the Norman Conquest of 1066, and was brought to America by early English colonists. The principal feature of the common law system is that much of the law is created by court decisions, rather than by statutes enacted by the legislature. In medieval times, there were very few statutes, and nearly all of the law was declared by the courts. In more recent times, a substantially greater portion of the law has been enacted in statutory form by legislatures, but much law is still determined by court decisions.

The civil law system, on the other hand, is based upon codes of laws enacted by the legislatures. The courts, in theory, have no power to declare new laws, but are limited to interpretation of law enacted by the legislatures. The roots of the civil law system lie in the laws of ancient Rome.

CIVIL AND CRIMINAL LAW

The law in the common law system is broadly divided into two categories, civil law and criminal law. (In this sense, it must be understood that there is a difference between "the civil law system" described above, and "civil law.")

Civil law relates to legal relationships between private persons, or between private persons and the government. The principal areas of civil law include family law, property ownership, contracts, tort law (claims for money damages arising out of wrongful acts), and the law relating to governmental agencies, programs and benefits.

Criminal law involves prosecutions by the state or by a municipality for violation of a law for which imprisonment or a fine may be imposed.

Sometimes law is classified in a different way, as being public law or private law. Public law is the law relating to government and to crimes. Private law is the law governing relationships between private persons.

SOURCES OF LAW

Because the United States is a federal system, in which both the national government and the states have the power to make laws governing the people, in Wyoming there is both federal law and state law.

The principal sources of federal law are:

1. Constitution of the United States
2. Federal statutes enacted by Congress
3. Regulations adopted by federal agencies
4. Decisions of federal courts
5. Federal court rules

The principal sources of Wyoming state law are:

1. Constitution of Wyoming
2. Wyoming statutes
3. Regulations adopted by Wyoming state agencies
4. Ordinances of Wyoming municipalities
5. Decisions of Wyoming courts
6. Wyoming Supreme Court Rules

COURTS IN WYOMING

Three different court systems exist in Wyoming: (1) United States or federal courts; (2) Wyoming state courts, and (3) Indian Tribal courts. Each court system deals with particular types of cases.

United States Courts

The United States courts or federal courts deal with matters of federal law, including the United States Constitution and federal statutes and regulations. Federal courts also handle cases of non-federal law involving diversity of citizenship, where suits are brought by a citizen of another state against a citizen of Wyoming.

The federal trial court is the United States District Court for the District of Wyoming, which has territorial jurisdiction not only over the State of Wyoming, but also over that part of Montana and Idaho which lie within Yellowstone National Park. The United States District Court sits regularly in Cheyenne and Casper. The District Court Judges are assisted by United States Magistrates, who are assigned to handle minor matters. There is also a United States Bankruptcy Court in Cheyenne.

Appeals from the United States District Court in Wyoming are taken to the United States Court of Appeals for the Tenth Circuit, which regularly sits in Denver, and has jurisdiction over appeals from federal District Courts in Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming.

The highest federal court is the United States Supreme Court, which sits in Washington, D.C. The Supreme Court has jurisdiction over appeals and writs of certiorari from the United States Courts of Appeals and from the highest court of each state. The Supreme Court also has original jurisdiction over cases between States of the Union, and cases involving ambassadors, public ministers and consuls.

WYOMING STATE COURTS

The Wyoming state courts deal with matters arising under the Constitution and laws of Wyoming, and may also deal with matters arising under federal law.

Municipal Courts

Each municipality in Wyoming has a municipal court, which has jurisdiction over violations of the ordinances of the municipality. Municipal courts also sit as a Juvenile Court.

Appeals from municipal courts are taken to the District Court.

County Courts and Justice of the Peace Courts

Each county in Wyoming has a County Court or one or more Justice of the Peace Courts. There are County Courts in twelve Wyoming counties: Albany, Campbell, Carbon, Converse, Fremont, Goshen, Laramie, Lincoln, Natrona, Sheridan, Sweetwater, and Uinta. Justice of the Peace Courts exist in eleven counties: Big Horn, Crook, Hot Springs, Johnson, Niobrara, Park, Platte, Sublette, Teton, Washakie, and Weston.

County Courts have jurisdiction over all criminal cases amounting to misdemeanor. County Courts also have jurisdiction to conduct preliminary examinations in felony cases. In civil cases, County Courts have jurisdiction when the amount in controversy does not exceed $7,000.00.

Justice of the Peace Courts have jurisdiction over all criminal cases amounting to misdemeanor in which the punishment is not greater than six months in jail or a fine of $750.00. They also conduct preliminary examinations in felony cases. In civil cases Justice of the Peace Courts have jurisdiction when the amount in controversy is not more than $3,000.00.

Appeals from County Courts and Justice of the Pease Courts are taken to the District Court.

District Courts

Wyoming is divided into nine judicial districts:

First Judicial District: Laramie County
Second Judicial District: Albany and Carbon Counties
Third Judicial District: Lincoln, Sweetwater, and Uinta Counties
Fourth Judicial District: Johnson and Sheridan Counties

Fifth Judicial District: Big Horn, Hot Springs, Park, and Washakie Counties
Sixth Judicial District: Campbell, Crook, and Weston Counties
Seventh Judicial District: Natrona County
Eighth Judicial District: Converse, Goshen, Niobrara, and Platte Counties
Ninth Judicial District: Fremont, Sublette, and Teton Counties

The Fourth Judicial District has one District Court judge. All other Districts have two District Court judges.

District Courts have original jurisdiction over all criminal and civil cases except those where jurisdiction is placed in some other court. Thus in counties where there is a County Court, the District Court has jurisdiction over felony cases, and civil cases where the amount in controversy exceeds $7,000.00. In counties where there is a Justice of the Peace Court, the District Court has jurisdiction over felony cases, misdemeanor cases where the punishment may exceed six months in jail or a fine of $750.00, and civil cases where the amount in controversy exceeds $3,000.00.

District Courts have jurisdiction over divorce and adoption cases, probate and guardianship matters, and most cases involving real property. District Courts also sit as Juvenile Courts.

District Courts also hear appeals from Municipal Courts, Justice of the Peace Courts, and County Courts.

Wyoming Supreme Court

The Wyoming Supreme Court consists of a Chief Justice and four Associate Justices. The Supreme Court regularly sits in Cheyenne, at the Supreme Court Building, but also regularly "takes the law to the people" by holding hearings elsewhere across Wyoming.

The Supreme Court has jurisdiction over appeals from the District Courts. Cases appealed from the Municipal Courts, Justice of the Peace Courts, and County Courts to the District Courts may also be taken to the Supreme Court by writ of certiorari at the discretion of the Supreme Court. The Supreme Court also has original jurisdiction in cases of habeas corpus.

Parties to cases before the Supreme Court must submit written briefs, and normally are permitted to argue orally before the Court. Decisions of the Supreme Court are issued in writing, and are announced when a decision in the case has been reached, which is normally several months after oral argument has been presented.

Indian Tribal Courts

The Indian tribal courts on the Wind River Reservation has jurisdiction over offenses arising on the reservation under the tribal code. Major crimes committed in Indian territory are prosecuted in the United Sates District Courts.

TRIBAL SELF-GOVERNMENT

Indian tribes have an inherent right to govern their own affairs. They had this right before the establishment of the United States, and they have it today. The inherent sovereign right of Indian tribes over their internal affairs, reservation activities, and enrolled members has been consistently recognized by treaties with the United States, by acts of Congress, and by the Supreme Court. The doctrine of tribal sovereignty has undergone some changes over the years, but its basic premise remains the same. An Indian tribe is a distinct political community. Congress has plenary power over Indian tribes and can limit or abolish tribal government, but until it does, the tribe retains the right to be self-governed.

Tribes have had the inherent right to be self-governed "from time immemorial." Tribes had this right long before the United States was itself a nation, and therefore, the United States did not delegate the right to tribes. Congress has the ability to limit tribal powers, but it did not create them.

THE SCOPE OF THE SHOSHONE AND NORTHERN ARAPAHO TRIBAL POWERS

The Shoshone and Northern Arapaho tribes of the Wind River Reservation have the same general powers as do the federal and state governments to control and regulate their own internal affairs. The tribes have the authority to form a government, regulate individual property, the right to tax, the right to maintain law and order, the right to exclude non-members from tribal territory, the right to regulate domestic relations, and the right to regulate commerce and trade. The Shoshone and Northern Arapaho tribes have exercised their sovereignty by creating the following:

1. **General Council:** Both tribes are governed by their individual General Council. The General Council consists of all individual enrolled members of the tribe over 18 years of age, and it is the supreme governmental authority on the reservation.

2. **Tribal Business Council:** The General Council of both tribes has created a six-member business council which has been delegated the authority to conduct the business affairs of the tribes. The council members are elected to serve two-year terms.

3. **Joint Business Council:** The tribes' two business councils combine to create a joint council. The Joint Business Council is delegated the authority to conduct the business affairs common to both tribes.

4. **Law and Order Code:** The tribes have enacted the Shoshone and Northern Arapaho Tribal Law and order Code which controls all criminal and civil matters on the reservation.

5. **Tribal Court:** The tribes have created the Shoshone and Northern Arapaho Tribal Court of Indian Offenses to administer justice over the affairs of the reservation. The tribes have also created police and fish and game departments to enforce the tribal code.

THE LEGAL PROFESSION

Attorneys at law (also called lawyers) are trained professionals who are licensed by the state to represent other persons in legal matters, both in court and outside of court. To become an attorney, a person must receive a college degree, attend law school for three years, and pass the bar examination. Wyoming attorneys practice under the general supervision of the Wyoming Supreme Court, and must follow the Wyoming Rules of Professional Conduct when they represent clients and appear in Court.

A person who is not a licensed attorney may represent himself or herself in court or other legal matters, but may not represent any other person or corporation.

A person who desires the services of an attorney should contact the attorney by telephone or by going to the attorney's office. The relationship between an attorney and a client is based on an agreement whereby the attorney will perform legal services for the client, and the client will pay the attorney a fee for those services. A client has the right to select the attorney, and to discharge the attorney, and an attorney has the right to reject persons as clients.

Not all attorneys do all kinds of legal work. For example, many attorneys choose not to engage in criminal law or family law. Other attorneys limit their practice to specialized legal areas such as tax law, personal injury law, water law, or environmental law.

Many persons who have a legal problem have never been represented by an attorney, and do not know how to find an attorney to represent them. One way is to ask for recommendations from friends, teachers, employers, or other persons who have had experience with attorneys. Another is to use the Lawyer Referral Service of the local bar association, if such a service is available. A third way is simply to refer to the yellow pages of the telephone book. If you call an attorney who does not handle your kind of case, the attorney will refer you to someone who does.

If a person has a legal problem, particularly a serious legal problem, it is important to consult an attorney without delay. The law frequently imposes time limits for taking legal action, and delay may result in loss of legal rights. For example, a person who is served with a summons or other legal process should get in touch with an attorney at once.

Persons who have a civil legal problem and who cannot afford to pay for the services of an attorney may be able to get legal services without cost through a Legal Services Program or through a local bar association program.

Persons who are charged with a serious crime which would include a jail sentence may qualify for a Public Defender if they are financially unable to hire a private attorney. Generally the court will appoint the Wyoming Public Defender, but may also appoint other attorneys. A person who is represented by Legal Services or by assigned counsel in a criminal case will not have a free choice as to who the attorney will be.

A person who is represented by an attorney should tell the attorney the entire truth about the legal problem. Only if the attorney knows the full facts can the attorney provide effective legal services. It is important to know that things a client tells an attorney must be held in strict confidence by the attorney. With very limited exceptions -- such as when the client announces plans to commit a crime -- all communications to an attorney must be held in confidence by the attorney, and the attorney may not tell anyone else what the client has said. Nor can the attorney be required to testify in court as to communications between the client and the attorney.

It is important that the client have faith and trust in the attorney. Without full trust, the client is not likely to be able to tell the attorney honestly about the facts of the case, and is not likely to be satisfied with the results achieved by the attorney. Therefore a client who, for whatever reason, does not trust a particular attorney, should find a new attorney.

The client has the right to discharge the attorney at any time, and to retain a different attorney or to act as his or her own attorney. Some limitations may be placed upon this right, as when the client seeks to discharge the attorney and find a new attorney in the middle of a trial.

A client should have a clear understanding with the attorney as to what services the attorney is to provide, and as to the attorney fee that will be charged and how it is to be paid. If there is any doubt, the client should feel free to ask the attorney about the services or the fee.

II. CRIMINAL LAW IN WYOMING

CRIMINAL PROCEDURE

Right to Counsel

Both the United States Constitution and the Wyoming Constitution provide that a person accused of a crime has the right to the assistance of an attorney.

Persons who have money to employ an attorney to represent them are expected to retain private defense counsel. Under our system of justice, persons who can pay their attorneys are expected to do so. Further, if a person retains an attorney, and later the criminal charges are dismissed or the person is found not guilty, the State does not provide reimbursement for the attorney fees.

When persons who cannot afford to pay an attorney are arrested or charged with a crime where there is a practical possibility of a jail sentence, they are entitled to have an attorney appointed to represent them at State expense. Normally an attorney employed by the State Public Defender's Office will be appointed, although the courts can also appoint other attorneys. As Wyoming Rules of Criminal Procedure 44(a) provides, "Every defendant who is unable to obtain counsel is entitled to be represented by assigned counsel at every state of the proceedings from the filing of an indictment, information or citation through appeal, unless that right is waived."

It is the duty of an attorney in a criminal case to be entirely faithful to the client, and to do everything that the law permits to seek the client's acquittal. The client is entitled to the effective assistance of counsel. This means that the attorney must investigate the case fully, interview witnesses, research the law, diligently prepare the case, and exercise professional competence on behalf of the client.

While all persons have a right to dispense with a lawyer and represent themselves, this can be a particularly dangerous course to follow. Apart from lacking the professional skills necessary to present a sound legal defense, persons charged with crime often are under a great deal of emotional pressure, which can prevent them from thinking clearly about their defense. From this comes the saying that a person who acts as his own lawyer has a fool for a client.

ARREST

Persons in our society are entitled to be free from arrest unless probable cause exists to detain them. Stated differently, a police officer or private person may arrest someone only under limited circumstances, based upon the existence of probable cause to believe that the person has committed a crime.

When a person is taken into police custody, it is called an arrest. An arrest occurs when a person is restrained by a police officer. That is to say, an arrest occurs when the officer verbally or by physical acts prevents the person from exercising the freedom to leave.

Arrests may be with a warrant or without a warrant.

Arrest with Warrant

A warrant is an order issued by a court and directed to a police officer that a person be arrested.

A warrant may only be issued after a criminal prosecution is started by the filing of a criminal information in a court. To issue a warrant, the court must have before it information to support probable cause that a crime has been committed by the person charged.

The warrant is executed by a police officer or other peace officer to take the person into custody. When the warrant is executed and a person is taken into custody, that person is held in jail until released by order of the court. When a warrant is executed, a return must be made to the court, informing the court what action has been taken. A person who is arrested must be taken before a court without unnecessary delay.

Arrest without Warrant

Persons may be arrested without a warrant, by police officers or by persons who are not police officers.

A police officer may arrest a person when that person commits a crime in the presence of the officer, or when the officer has probable cause to believe that the person has (1) committed a felony or (2) has committed a misdemeanor and there is probable cause to believe that unless an arrest is made, the person will not be apprehended, will injure himself or others, or damage property, or destroy or conceal evidence.

When an officer has grounds to arrest for a misdemeanor, instead of arresting the person, the officer may issue a citation directing the person to appear in court at a particular time. If the accused fails to appear as required, the judge may issue a bench warrant to have the accused arrested immediately.

A person other than a police officer may also make an arrest without a warrant, but only for a felony which has been committed, or for a misdemeanor larceny offense or property destruction offense.

Procedure After Arrest

When the warrant is executed and a person is taken into custody, that person is held in jail until released by order of the court. When a warrant is executed, a return must be made to the court, informing the court wheat action has been taken. A person who is arrested must be taken before a court without unnecessary delay. Under present Wyoming law, all persons arrested must appear before a judge within 48 hours of the arrest.

Interrogation and Confessions

A confession by an accused person is very powerful evidence against that person. For this reason, law enforcement officers question suspected or accused persons with the intention of securing a confession or an admission of facts which tend to show that the person is guilty. A high percentage of crimes are "solved" by admissions or confessions made by accused persons.

The Fifth Amendment to the United States Constitution provides in part that "No person. . . . . shall be compelled in any criminal case to be a witness against himself." The Wyoming Constitution has a similar provision. These provisions have been held to mean not only that a person has the right not to be called as a witness in a trial where that person is accused of a crime, but also to mean that a person has the right to remain silent outside of the criminal trial.

The primary focus of these protections is upon confessions and admissions made by accused persons prior to trial. Confessions given because of coercion have long been held inadmissible. Today the courts are also concerned with confessions which may not be voluntary because the person does not understand the right to remain silent.

The case of Miranda v. Arizona, 384 U.S. 436 (1966), addressed this concern. Miranda holds that before a person in custody may be questioned by a law enforcement officer, the person must be given certain warnings. Known as "Miranda warnings" or "Miranda rights," these warnings include: (1) the right to remain silent; (2) notice that anything said can and will be used against the person in court; (3) the right to consult with a lawyer and have the lawyer present during any interrogation; and (4) the right to assert the right to remain silent at any time during questioning, thereby terminating the questioning. If a person asks for a lawyer, questioning may not take place until a lawyer is present.

If the Miranda warnings are not given, any subsequent admission or confession that is the result of police questioning while the person is in custody may not be admitted against the person at trial.

It is important to note two limitations of the Miranda doctrine. First, it applies only after persons have been taken into official custody -- that is, their liberty has been affected because they are not free to leave voluntarily. Therefore questioning by law enforcement officers where the person is not in custody, but is free to leave, does not require Miranda warnings. Second, it applies only to interrogation, or questioning, by law enforcement officers, so that a statement made voluntarily and not in response to a police question does not fall within the Miranda protections. Thus if a person in police custody is not being questioned, but simply volunteers a statement to police, that statement will be admissible at trial. Many people are convicted of crimes even though the Miranda Warning was never given. If the government chooses not to interrogate the accused because sufficient evidence for a conviction has already been established, (e.g. eyewitnesses to the crime) then the accused may never be "Mirandized".

The important thing to remember is that a person has a right not to talk to law enforcement officers. If a person is arrested, it will normally be in that person's best interest not to talk to police until the person has the chance to consult a lawyer. A person who has been arrested by police is often confused and unable to understand the consequences of talking to police. Even after a person is told of the right to remain silent, it is often difficult to do so. Human beings are social creatures and like to talk. They are motivated to explain their actions to other persons, and often say things which are not in their own best interests. The very worst time to talk may be when a person has been taken into custody for a crime.

SEARCH AND SEIZURE

The Fourth Amendment to the United States Constitution, and Article 1, Section 4 of the Wyoming Constitution provide that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated * * * ." This does not forbid all searches and seizures by law enforcement officers, but only those which are unreasonable.

Searches and seizures may be made with or without a warrant.

Searches Without a Warrant

The law prefers that searches of persons, homes, businesses, vehicles, and other places where individuals have a right of privacy be made with a search warrant. However, under certain limited circumstances a search may be made without a warrant, including: (1) where a person has consented to the search; (2) a search which is incident to a lawful arrest; (3) seizures of property in "plain view"; (4) searches made when inventorying vehicles or other property in police custody; (5) "pat-down" searches for weapons incident to "stop and frisk" questioning; and (6) searches under exigent (emergency) situations, where there is no time to obtain a search warrant.

If a search made without a warrant is unreasonable, the defendant can have any evidence discovered during the search suppressed, so that it cannot be used against the defendant at trial.

Searches With a Warrant

Search warrants may be issued by any judge. Applications for search warrants must be sworn to in writing, and must establish probable cause to believe that sufficient grounds for issuing the warrant exist.

A search warrant may be issued to search for and seize: (1) property that constitutes evidence of the commission of a criminal offense; (2) contraband, the fruits of crime, or other thing criminally possessed; (3) property designed or intended for use, or which has been used, to commit a crime; and (4) persons for whose arrest there is probable cause, or who are being unlawfully detained.

A search warrant may be executed only between 6 a.m. and 10 p.m., unless the judge specifically permits it to be served at other times. A search warrant must be executed and a return made within 10 days of the issuance of the warrant, and an inventory made of anything seized under the warrant.

If a search warrant has been improperly issued, or improperly executed, a motion may be made to restore anything taken and to suppress any evidence obtained through the search.

CHARGING THE OFFENSE

Offenses in Wyoming are prosecuted by indictment, information or citation. All three must contain a written statement describing the offense that is charged. By far, most charges are initiated by an information filed by the prosecuting attorney or a citation issued by an officer.

An indictment is a charge of crime which is made by a grand jury. Grand juries consist of 12-25 grand jurors, (one of whom is appointed as presiding juror.) The grand jury hears evidence presented by the prosecuting attorney. If it decides that there is probable cause to believe that a crime has been committed and that a particular person committed it, an indictment or "true bill" will be presented to the District Court. Grand juries operate in secret, with only the grand jurors, the prosecutor, a witness, and a court reporter present. A person who has been indicted by a grand jury is not entitled to a preliminary examination. Grand juries are not frequently called in Wyoming, except by the federal courts.

An information is "a plain, concise and definite written statement of the essential facts constituting the offense charged," which is signed by the prosecuting attorney. An information may charge a misdemeanor or a felony. Where an information charges a felony, the defendant is entitled to a preliminary examination before a judicial officer -- normally a county court judge or justice of the peace -- to determine whether there is probable cause to believe that the charged offense has been committed and that the defendant committed it.

A citation is issued by a law enforcement officer, and must contain "a reference to the statute or ordinance violated and a concise statement of the alleged offense." Citations may be issued in misdemeanor cases in place of arresting the accused person. A citation directs the defendant to appear in court at a specified date and time, except where the offense is one for which the defendant may forfeit bond in place of appearance.

Criminal charges are filed and prosecuted in the county where the offense is alleged to have been committed. Where a fair trial is impossible in that county because of prejudice against the defendant, the case may be transferred to a different county -- a procedure known as a change of venue.

More than one crime may be charged in a single indictment or information, and more than one person may be made a defendant in a single indictment or information, so long as there is some connection with the same act or transaction, or with a common scheme or plan. Where more than one crime is charged, each crime should be listed in a separate paragraph or count.

Bail

In all criminal cases, except in capital cases "when the proof is evident or the presumption great," a person accused of crime has the right to be released on bail before trial or before a plea of guilty is made. The purpose of bail is to permit the accused to be released instead of being held in jail. Conditions may be placed upon an accused person's release, to guarantee that the person will appear for further proceedings in the case, including trial and sentencing. These conditions may include posting some kind of appearance bond, including a money bond or a surety bond whereby a sum of money will be forfeited if the person does not does not appear as required. The conditions may also include conditions other than monetary, such as by requiring the defendant to live in the community, to refrain from alcohol or to stay away from the alleged victim. If a person violates the conditions of an appearance bond, the court may order the person confined.

Arraignment and Pleas

At arraignment, the accused person appears in court, is informed of the criminal charges, and is called upon to enter a plea to the charges. The accused may enter a plea of: (1) not guilty; (2) not guilty by reason of mental illness or deficiency; (3) guilty; or (4) nolo contendere (no contest). The nolo contendere plea, which is the equivalent of a plea of guilty without admitting guilt, may be entered only with the consent of the court. If an accused refuses to plead, the court enters a plea of not guilty.

Before the court can accept a plea of guilty or nol contendere, the accused must be informed of the nature of the criminal charge, the maximum punishment that can be imposed, other consequences of the plea such as restitution and loss of civil rights, and the right to counsel and a trial. The court must be satisfied that the defendant understands this information, and that the plea is being made voluntarily. Further, in the case of a guilty plea, the court must find that there is a factual basis for the plea.

If a person pleads guilty, no trial will be held. In misdemeanor cases the court will proceed to sentencing, while in felony cases a presentence investigation will be made.

Many pleas of guilty result from plea bargaining between the defendant and the State. Under a plea bargain the defendant agrees to plead guilty or nolo contendere in exchange for (1) reduction of the criminal charges; (2) agreement not to file other charges; or (3) considerations in sentencing. The court does not participate in the plea bargaining process, and need not accept a plea bargain entered into between the defendant and the State.

PRETRIAL PROCEEDINGS

Pretrial Motions and Notices

Prior to trial, it is appropriate that a number of objections or requests be raised by the parties. This is generally done through filing written motions with the court. "Any defense, objection, or request which is capable of determination without the trial of the general issue may be raised before trial by motion." Rule 12(b), Wyoming Rules of Criminal Procedure.

Some motions which must be made before trial include: (1) a motion to disqualify the judge because of bias or prejudice; (2) a motion to change the place of trial to another county because a fair trial cannot be had in the county where the crime allegedly occurred; (3) motions to suppress evidence, including confessions and evidence taken through search and seizure; and (4) motions to dismiss based on defects in the indictment or information, other than matters which involve the power of the court to act, as would be the case if the information failed to charge a crime.

Notice of certain other issues must be given before trial. A defendant who wishes to present the defense of mental illness or deficiency must make a plea of not guilty by reason of mental illness or deficiency at arraignment, unless the court allows it to be made later.

Pretrial Discovery

The purpose of pretrial discovery is to permit the defendant and the State to have some knowledge of the evidence which the other side intends to introduce at trial, and to permit the defendant to know of any exculpatory evidence which the State may have (evidence tending to show that the defendant might not be guilty).

It is important to note that while the State has the duty to disclose to the defendant anything which may tend to show that the defendant is not guilty, the defendant has no corresponding duty to disclose to the State things which tend to show that the defendant is guilty. The State has the duty to act fairly to tell the defendant anything it knows which is relevant to defendants innocence, while the defendant's duty only extends to things which the defendant intends to introduce at trial.

The State may also demand whether the defendant intends to rely upon an alibi defense, or upon the defense of unconsciousness or automatism.

In addition, the court may make a pretrial order directing each side to inform the other of the names and addresses of witnesses it intends to call at trail.

Finally, may prosecuting attorneys have an "open file" policy, under which they permit defense counsel to have access to the full contents of the office file in the case.

Speedy Trial

Both the Sixth Amendment to the United States Constitution and Article 1, Section 10 of the Wyoming Constitution guarantee a person accused of crime the right to speedy trial. There is no mathematical test for determining what "speedy" means. The question is whether there has been an unreasonable delay, after a person has been arrested or charged with a crime, before the person is brought to trial.

In dealing with constitutional claims of denial of the right to speedy trial, the Wyoming Supreme Court applies a "balancing test," which considers the length of the delay, the reason for the delay, whether the defendant demanded a speedy trial in the trial court, and whether the defendant has been prejudiced by the delay. Delays between arrest and trial of 18 months, and of 562 days, have been held to violate the speedy trial guarantee.

The remedy for violation of the constitutional speedy trial guarantee is dismissal of the criminal charge with prejudice, so that the person cannot be tried again on that charge.

In Wyoming, there is also a Rule of Criminal Procedure which requires that persons charged with crime must be brought to trial within 120 days after their first appearance in court to plead to the charge. If trial does not begin within 120 days, the charges must be dismissed. However this dismissal is without prejudice, meaning that the charge might be refiled, unless the defendant has made a written demand for a speedy trial.

The right to speedy trial attaches only after a person has been arrested or formally charged with a crime. Delay which occurs before arrest or a criminal charge is made is not counted for speedy trial purposes. Although pre-accusation delay may require dismissal with prejudice of criminal charges, if the delay was "an intentional device" used by the state "to gain technical advantage over the accused," and substantial prejudice to the defendant was caused by the delay. The basis for such dismissal is a violation of due process of law, and not of the speedy trial provisions.

Most states have statutes of limitations which require that criminal charges must be brought within a specified time after the commission of a crime. For example, it may be required that misdemeanor charges be brought within one year, most felonies within three years, and murder within ten years after the crime is committed. In Wyoming there is no statute of limitations in criminal cases, so that a charge of crime may be brought at any time after it has been committed. The only limitation would be that a delay could not be so long or so prejudicial that it would violate the defendant's right to due process of law.

TRIAL RIGHTS OF ACCUSED PERSONS

Defendants in criminal trials have a number of rights guaranteed by constitution, statute or court rule. Among these rights are:

Right to Be Present

An accused has the right to be present at every stage of the criminal trial. However, by voluntary absence or disruptive conduct, the accused may waive the right to be present. Thus, if a defendant would leave during the middle of a trial, or would create a disturbance in the courtroom, the trial could proceed without the presence of the defendant.

Right to Confront Witnesses

A defendant in a criminal case has the right under the United States Constitution and the Wyoming Constitution to be confronted with the witnesses against him. That means that at trial the defendant has the right that persons who give evidence against him must appear in court in the defendant's presence and testify under oath. Therefore, a person cannot be convicted on the testimony of persons not present at the trial. However, under the rules of evidence there are some instances in which out-of-court testimony or statements can be used against a defendant.

Presumption of Innocence

Persons charged with crimes are presumed to be innocent until proven guilty. This means that before a person can be deemed guilty of a crime, the State must prove that the person committed the crime. The mere fact that a person has been arrested, or is charged with a crime, does not allow the legal system to draw the conclusion that the person is guilty.

It must be recognized that the presumption of innocence only applies to findings of guilt by the court system, or by the government. Thus, if you were to see a person damage your property, you could personally conclude that the person was guilty, without any further procedure. On the other hand, before the State can conclude that a person is guilty of a crime, guilt must be proved in accordance with the procedures outlined in this chapter.

Right to Testify; Right to Remain Silent

All persons charged with crime have the right to demand a trial and to testify in their own behalf at that trial. Strange as it may seem today, only a little more than a century ago criminal defendants were not permitted to testify for themselves. The reason was that because they had an interest in the outcome of the case, it was presumed that they would lie.

The right to testify is a right that is personal to the defendant in a criminal case. That is to say, the defendant can decide whether to testify, or whether not to testify. If the defendant chooses not to testify, the State cannot require the defendant to testify. This is the right to remain silent at trial, and is similar as the right to remain silent while being questioned before trial.

Compulsory Process to Obtain Witnesses

The Sixth Amendment to the United States Constitution, and Article 1, Section 10 of the Wyoming Constitution, both guarantee an accused the right to compel witnesses in his or her behalf to appear at the trial to give testimony.

Witnesses are summoned through the use of a subpoena, which is issued by the clerk of the court and commands the witness to appear at a particular time. "Subpoena" means "under penalty"; a person who disobeys a subpoena may be punished by the court.

Proof Beyond a Reasonable Doubt

In every criminal case, and in every juvenile delinquency case, the defendant can be convicted only when the State proves beyond a reasonable doubt every fact necessary to constitute the crime or delinquent act charged. This was the holding of the United States Supreme Court in the case of In re Winship, 397 U.S. 358 (1970).

Right to Counsel

A criminal defendant's right to counsel includes the right to the advice and assistance of counsel at all stages of the criminal proceeding, including trial.

Trial by Jury

In all felony cases, and in all misdemeanor cases in which the defendant may be punished by imprisonment, there is a right to trial by jury. Juries consist of twelve jurors in felony cases and six jurors in misdemeanor cases. With the consent of the court and the approval of the State, a defendant may waive trial by jury and be tried by the judge.

TRIAL

A criminal trial may be before a jury, or before the judge without a jury. If it is to be a jury trial, the first stage of the proceeding is to select the jury. In this process, persons are summoned to appear as prospective jurors, and the court and the parties are given the opportunity to question the prospective jurors as to their qualifications to serve as jurors. This process is known as voir dire. Any prospective juror who is related to the parties, or is a witness, or has some bias which would prevent a fair decision, will be dismissed for cause. In addition, the State and the defendant each have a number of peremptory challenges, by which jurors who are believed to be undesirable may be dismissed.

When the jury has been selected and sworn to try the case, the prosecuting attorney makes an opening statement, in which the facts which the State intends to prove are outlined.

The defendant or his attorney may make an opening statement either immediately following the State's opening statement, or may wait until the State's case has been presented before making an opening statement.

The State next calls its witnesses and presents its evidence to prove that the defendant is guilty of the crime charged. At the close of the State's case, if the State has not presented sufficient evidence from which a reasonable jury could conclude beyond a reasonable doubt that the defendant had committed the crime, the court must dismiss the charges and discharge the defendant.

After the State has put on its evidence, the defendant may present evidence. However, the defendant need not present any evidence, but may simply argue that the State has failed to prove the crime beyond a reasonable doubt. The defendant may testify in his own behalf, but need not do so, and cannot be compelled to do so.

The State may then present rebuttal evidence, in answer to the evidence presented by the defendant.

A complex set of rules governs the evidence which may be presented to the jury in a criminal trial. Whenever one side offers testimony of a witness or other evidence (such as a weapon or a photograph) which is not admissible under the rules of evidence, the other side may object, and the judge must then rule on the admissibility of the evidence.

After all the evidence has been received, the court will instruct the jury as to the law of the case, including as to the elements of the crime which the jury must find to be established beyond a reasonable doubt before it can convict the defendant. The jury is instructed as to the presumption of innocence, and that if the State has not proved guilty beyond a reasonable doubt that it must find the defendant not guilty.

When the court has instructed the jury, the State gives its closing argument. Next, the defense gives its closing argument. Finally, the State has the opportunity for a rebuttal argument. The jury then retires to the jury room to decide the case. When the jury has reached a unanimous verdict of guilty or of not guilty, it returns to court to announce its verdict.

Sentencing

When a person pleads guilty or nolo contendere, or is found guilty by the court or by a jury, the court determines what the sentence shall be. The only exception is that in death penalty cases the jury decides whether the defendant shall receive a sentence of death or of life imprisonment.

For each crime, the law fixes a particular sentence that the court can impose, usually within stated minimum and maximum limits. For example, if a person is convicted of larceny of property worth $500 or more, the court can sentence the defendant to a term of up to 10 years in the penitentiary, or a fine of up to $10,000, or both a fine and imprisonment. In felonies, the court must order minimum and maximum limits on imprisonment, so that for felony larceny a person might be sentenced to a term of from 5 to 10 years in prison.

The court is given a great deal of discretion in deciding what sentence to impose. Thus a court usually has the option whether to imprison the defendant, to fine the defendant, to suspend the defendant's sentence, to place the defendant on probation, or to impose some combination of these alternatives.

Sentence must be imposed without unnecessary delay after a person is found guilty. In each felony case, the court orders a presentence investigation report to be made, informing the court of the defendant's background and the nature of the crime. The court may, but need not, order a presentence investigation in misdemeanor cases.

Criminal Appeals

A person who is convicted of a crime has the right to appeal to a higher court. Thus, a person convicted in a County Court, Justice of the Peace Court, or Municipal Court, has the right to appeal to the District Court. A person convicted in a District Court has the right to appeal to the Wyoming Supreme Court.

The purpose of an appeal is to demonstrate that errors of law have occurred in the proceedings leading to conviction. An appeal is not for the purpose of trying the case again, and in an appeal no new evidence is heard. Instead, the reviewing court is limited to the record of the proceedings which took place in the trial court.

Appeals to the Supreme Court from convictions in the District Court must be taken within 30 days after the entry of the judgment and sentence in the District Court.

The person taking the appeal -- called the appellant -- must file a written brief with the Supreme Court, setting forth the alleged errors of law made by the District Court. The Attorney General, representing the state, then files the appellee's written brief answering the appellant's brief. The case is then normally scheduled for oral argument before the Supreme Court, although the Court has power to dispense with oral argument.

After oral argument, the Supreme Court will take the case under advisement and give a written decision either affirming the conviction, or reversing the conviction. If a conviction is reversed, the defendant may be tried again, except where the reversal is because of a failure of proof in the original trial, a denial of the right of speedy trial, or some other error which makes retrial inappropriate.

Appeals from County Courts, Justice of the Peace Courts, and Municipal Courts are taken to the District Court, where the procedure is similar to that in appeals to the Supreme Court. However the District Court may merely listen to the tape of the trial and not request briefs. After the District Court has decided an appeal of this kind, further review may be sought in the Supreme Court by writ of certiorari, which in its discretion the Supreme Court may issue or deny.

Post-Conviction Remedies

After a conviction has been affirmed on appeal, or no appeal is taken within the required time, a person may still be able to attack a criminal conviction if there has been "a substantial denial of his rights under the constitution of the United States or of the State of Wyoming." This process is known as post-conviction relief. It is initiated by filing a petition with the court where the conviction occurred, setting forth the nature of the claim of denial of constitutional rights.

The scope of post-conviction relief is very narrow, in that no claim may be raised which was decided earlier, or which could have been raised by a direct appeal but was not. A person seeking post-conviction relief may be represented by counsel, but is not entitled to have appointed counsel. The trial court may hold a hearing on the petition for post-conviction relief if sufficient facts are alleged. If the court grants the petition, it may order a new trial or other appropriate relief. If the court denies the petition, the petitioner may seek further review by certiorari to the Wyoming Supreme Court. As the Supreme Court has discretion whether to grant or deny certiorari, there is no right to have the trial court's decision reviewed.

Victim Crime Compensation Program

If you are an innocent victim of a violent crime, the State of Wyoming has a program you should consider - The Wyoming Crime Victims Compensation Program. The State provides compensation for: medical and dental services, dental and prosthetic devices, mental health counseling and care, funeral and burial expenses, loss of earnings, loss of support to dependents, homemaker replacement services (including home maintenance and child care) and other economic losses which are decided on a case by case basis.

For more information contact:

Office of the Attorney General
Wyoming Crime Victims Compensation Commission
1813 Carey Avenue
Cheyenne, Wyoming 82002
or call collect at (307) 635-4050

SUBSTANTIVE CRIMINAL LAW

The law governing crimes in Wyoming is principally found in the Wyoming Criminal Code, which is Title 6 of the Wyoming Statutes "Crimes and Offenses." The terms "crimes" and "offenses" have the same meaning, and are used interchangeably. Other statutes on crimes can be found scattered throughout the Wyoming Statutes. For example, controlled substance offenses are in Title 35, and motor vehicle offenses are in Title 31.

In Wyoming, no act is a crime unless it is designated as a crime by a statute enacted by the Legislature, or in the case of municipalities unless it is made a crime by some municipal ordinance which is authorized by law. Thus there are no "common law" crimes in Wyoming, meaning that the courts do not have the power to create new crimes.

Crimes are often classified as crimes against persons, crimes against property, crimes against morals, crimes against the public peace, and crimes against administration of government. There are also other crimes, principally of a regulatory nature such as motor vehicle operation and licensing.

The principal crimes which appear in the Wyoming statutes are discussed below. This list is not complete, as some Wyoming crimes are not mentioned. In addition, it must be kept in mind that these are crimes against the State of Wyoming only. Federal statutes also apply in Wyoming, making criminal many other acts involving controlled substances, tax and mail fraud, and crimes involving interstate travel. Other states have criminal laws which differ from those of Wyoming, although all states punish crimes such as homicide, kidnapping, sexual assault, robbery, burglary, and larceny.

General Provisions

The Wyoming Criminal Code contains provisions which apply generally to all crimes. For example, crimes are either felonies or misdemeanors. A felony is a crime punishable by death or by imprisonment, for more than one year. All other crimes are misdemeanors, which are punishable by imprisonment for not more than one year or by a money fine.

The person who actually commits a felony is called the principal. A person who knowingly assists in the commission of the felony, or who counsels, encourages, hires, commands or procures the felony to be committed is an accessory before the fact, and may be punished for the same principal. All persons involved in the commission of misdemeanors are principals.

A person who intends to commit a crime and does an act which is a substantial step toward commission of the crime is guilty of an attempt to commit the crime, and may be punished in the same manner as if the crime had been committed. Likewise, a person who commands, encourages or facilitates the commission of a felony with the intent that the felony be committed, is guilty of solicitation. Persons who agree to commit a crime, and then do an overt act toward the commission of the crime, are guilty of conspiracy. Persons guilty of solicitation or of conspiracy may be punished the same as for the crime solicited or which was the object of the conspiracy. The only limitation is that in cases of attempt, solicitation, or conspiracy to commit murder in the first degree the death sentence cannot be imposed.

Some basic criminal law principles are not found in the Criminal Code or elsewhere in the Wyoming statutes. Thus the usual requirement that each crime requires a criminal intent and a guilty act (in Latin, Mens rea and actus reus) applies to serious crimes in Wyoming, even though the statutes do not say so. A few crimes do not require a criminal intent -- it is enough that the person do the forbidden act. These are usually minor crimes, on the order of overtime parking, driving with an expired license, and speeding.

Also, criminal defenses are not spelled out in the Wyoming Criminal Code. Instead, the Criminal Code provides that "Common-law defenses are retained unless otherwise provided by this act." Some applicable defenses are set out in the following discussion.

OFFENSES AGAINST PERSONS

Homicide

Homicide is the killing of another human being.

The homicide offenses are murder in the first degree, murder in the second degree, manslaughter, criminally negligent homicide, and vehicular homicide.

The elements of first degree murder are either that:

a. the defendant
b. purposely and with premeditated malice
c. killed another human being

or that:

a. the defendant
b. in the perpetration of, or attempt to perpetrate any sexual assault, arson, robbery, burglary, escape, resisting arrest or kidnaping
c. killed another human being

The first method of committing first degree murder requires that the defendant intended to kill the victim, and that the defendant thought about it beforehand. "Premeditated" means that the defendant thought about killing the victim before doing the act that resulted in death. "Malice" means that the killing was intentional, without legal justification or excuse.

The second method of committing first degree murder is often called "felony murder," since the killing occurs while the defendant is committing or attempting to commit one of the listed felonies.

The punishment for first degree murder is either death or life imprisonment. In a case in which the State seeks the death penalty, the jury must first determine whether the defendant is guilty of first degree murder. Then in a further proceeding the jury hears evidence in aggravation and in mitigation of the offense, and determines whether the death sentence shall be imposed.

The elements of second degree murder are that:

a. the defendant
b. purposely but without premeditation
c. killed another human being

The distinction between second degree murder and first degree intent to kill murder is that for second degree there need not be premeditation, and that the defendant need not have intended to kill the victim. Thus a sudden or impulsive act of shooting or stabbing another person, which results in that person's death, is second degree murder.

The punishment for second degree murder is a term of imprisonment for not less than twenty years or for life.

Manslaughter may be voluntary manslaughter, or involuntary manslaughter. Voluntary manslaughter occurs when a person's intentional act causes the death of another, but the act was committed "under a sudden heat of passion." However, this does not mean simply that the actor was angry and killed another person. A "sudden heat of passion" must be the result of a reasonable provocation which would cause a normal person to react violently. Generally reasonable provocation is limited to physical assaults upon the actor or persons close to the actor, or to the discovery of a spouse in the act of adultery.

Involuntary manslaughter is committed when a person acts recklessly, causing the death of another person. Recklessness occurs when the actor is aware that his actions would create an unjustifiable risk that another person might be killed, but the actor disregards the risk and performs the act.

The punishment for manslaughter is imprisonment in the penitentiary for not more than 20 years.

A person who causes the death of another through criminal negligence is guilty of criminally negligent homicide. Criminal negligence occurs when a reasonable person would be aware that his actions would create an unjustifiable risk that another person might be killed, but the actor is not aware of the risk and performs the act. The difference between recklessness and criminal negligence may seem hard to understand, but it depends upon whether the actor was or was not aware of the unjustifiable risk. Criminally negligent homicide is a misdemeanor, punishable by imprisonment for not more than 1 year, a fine of not more than $2,000 or both imprisonment and fine.

Vehicular homicide is committed when a person operates or drives a vehicle in a criminally negligent manner, which causes the death of another person. Aggravated vehicular homicide is committed when a person operates or drives a vehicle recklessly, or while under the influence of alcohol or a controlled substance, which causes the death of another person. Vehicular homicide is a misdemeanor punishable in the same manner as criminally negligent homicide: 1 year, $2,000 fine. Aggravated vehicular homicide is a felony punishable in the same manner as manslaughter: not more than 20 years in prison.

Kidnaping

Kidnaping is committed when a person is unlawfully removed from the person's residence or place of business or from the vicinity where the person was found, or is unlawfully confined, with the intent to hold the person for ransom or reward, or to hold the person as a hostage or shield, or to aid in the commission of a felony, or to injure or terrorize the person.

Kidnaping is punishable by imprisonment for not more than 20 years, except that if the victim is not voluntarily released unharmed in a safe place prior to trial imprisonment is for not less than 20 years, or for life.

Felonious restraint is committed when a person is restrained unlawfully under conditions exposing the person to risk of serious bodily injury, or is held in involuntary servitude. Punishment is imprisonment for not more than 5 years.

False imprisonment is committed when a person knowingly and unlawfully restrained so as to interfere substantially with his liberty. Punishment is imprisonment for not more than 1 year, a fine of not more than $1,000, or both.

Interference with custody is committed when a minor child is taken or enticed from the child's parent or lawful custodian, or if a child is not returned to a person entitled to custody. If interference with custody is committed by a person who is not a parent of the child, or by a parent who conceals the child, the maximum punishment is imprisonment for 5 years. If it is committed by a parent who does not conceal the child, the maximum punishment is imprisonment for 1 year and 1 day.

Sexual Assault

The Wyoming sexual assault statute protects both females and males from sexual assault. There are four degrees of sexual assault.

First degree sexual assault is committed when sexual intrusion is inflicted on a victim by force or by threats of death or immediate serious harm, or when the victim is physically helpless or mentally unable to understand what is occurring. The punishment for first degree sexual assault is imprisonment for not less than 5 nor more than 50 years.

Second degree sexual assault is committed when sexual intrusion is inflicted on a victim by use of threats of future death or serious bodily harm; where the victim is drugged; where the defendant knows that the victim mistakenly believes the defendant is the victim's spouse; where the defendant is in a position of authority over the victim, such as a guardian, relative, teacher or employer; or where the intrusion occurs as part of a feigned medical examination or treatment. Second degree sexual assault is also committed when the victim is less than 12 years of age, and the defendant is at least 4 years older; and when the victim is subjected to sexual contact and receives serious bodily injury. The punishment for second degree sexual assault is imprisonment for not more that 20 years.

Third degree sexual assault is committed when a person at least 4 years older than the victim commits sexual intrusion upon a victim who is under 16 years of age. It is a defense that the defendant reasonably believed that the victim was at least 16 years of age. Third degree sexual assault is also committed when a victim under the age of 12 is subjected to sexual contact. Third degree sexual assault is a felony punishable by imprisonment for not more than 5 years.

Fourth degree sexual assault is committed when a victim is subjected to unlawful sexual contact. It is a misdemeanor punishable by imprisonment for not more than 1 year.

Enhanced sentencing for all four degrees of sexual assault may be imposed where the defendant has been convicted of prior first or second degree sexual assaults, or is being sentenced for two or more separate acts of sexual assault in the first or second degree.

It is no longer a defense to a charge of sexual assault that the defendant and the alleged victim are married to one another.

When a sexual assault is reported, the victim is encouraged to be medically examined by a licensed physician.

A defendant may be convicted upon the word of the alleged victim, if believed by the jury, and no other corroborating evidence is necessary. Further, evidence of prior sexual conduct by the alleged victim will not be received at trial unless it is clearly relevant to the issues in the trial.

Robbery and Blackmail

The crime of robbery is committed if, while committing the crime of larceny, a person inflicts bodily injury upon another, or threatens another with or intentionally puts another in fear of immediate bodily injury. Robbery becomes aggravated robbery if serious bodily injury is inflicted or attempted, or if a deadly weapon or simulated deadly weapon is used.

Robbery is punishable by imprisonment for up to 10 years. Aggravated robbery is punishable by imprisonment for not less than 5 nor more than 25 years.

Blackmail is committed if, with the intention of obtaining property or another or causing another to do an act against his or her will, a person threatens bodily injury or injury to the property of another, or threatens to accuse another of a crime or disgraceful immoral conduct. Blackmail becomes aggravated blackmail if actual bodily injury is inflicted.

Like robbery, blackmail is punishable by imprisonment for up to 10 years, and aggravated blackmail by imprisonment for not less than 5 nor more than 25 years.

Assault and Battery

The elements of the crime of simple assault are that:

a. the defendant
b. having the ability to do so
c. unlawfully attempted to cause bodily injury
d. to another person

Simple assault is a misdemeanor punishable by a fine of not more than $750.

The elements of the crime of battery are that:

a. the defendant
b. unlawfully touched
c. another person
d. in a rude, insolent or angry manner

or that:

a. the defendant
b. recklessly caused
c. bodily injury

d. to another person

Battery is a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than $750, or both.

Aggravated assault and battery is committed when serious bodily injury is intentionally, knowingly or recklessly caused to another; when a person attempts to cause or causes bodily injury to another with a deadly weapon; when a person threatens to use a drawn deadly weapon where not necessary in defense of persons or property; or when bodily injury is intentionally, knowingly or recklessly caused to a woman whom the actor knows is pregnant. Aggravated assault and battery is punishable by imprisonment for not more than 10 years.

Child abuse is committed when a physical or mental injury is intentionally or recklessly inflicted upon a child under 16 by a person at least 6 years older than the child. It is a felony, punishable by imprisonment for not more than 5 years.

Reckless endangering is committed when a person recklessly engages in conduct which places another person in danger of death or serious bodily injury. Knowingly pointing a firearm at another person is reckless endangering, unless done in defense of oneself or others, or to protect property. Reckless endangering is a misdemeanor punishable by imprisonment for not more than 1 year.

In 1993 the Wyoming Legislature enacted the crime of stalking. Stalking is committed when a person in a course of conduct which is likely to cause substantial emotional distress and serious alarm. The course of conduct may include communicating orally, by writing or by telephone; or following another person; or placing another person under surveillance (as by parking and remaining outside that person's house or place of employment). Stalking is a misdemeanor punishable by imprisonment for not more not more than $750, or both. However, if a person has been previously convicted of stalking with the past five years, or serious bodily harm is inflicted, or the offense was committed in violation of parole, probation, bail, or court order, then the punishment may not exceed imprisonment for 10 years.

OFFENSES AGAINST PROPERTY

Arson

Arson involves the burning of property. First degree arson is committed when a person maliciously starts a fire or causes an explosion with intent to destroy or damage an occupied structure. "Maliciously" means that the act was done intentionally, without legal justification or excuse. "Occupied structure" includes structures or vehicles where people live, work, assemble, or can reasonably be expected to be present.

The 1993 Wyoming Legislature added the crime of aggravated arson, which is committed when a person causes a fire or explosion with intent to destroy an occupied structure, under circumstances showing reckless disregard for human life, and a person suffers serious bodily injury or death.

Second degree arson involves setting a fire or causing an explosion with intent to collect insurance proceeds. Third degree arson occurs when a person intentionally or recklessly starts a fire or causes an explosion which places another person in danger of bodily injury or destroys or damages property of a value of $200.00 or more. In addition, it is a crime to set fire to woods, prairie or other grounds of another; to permit fire to spread from one's property to that of another; to leave unattended fires burning; and to throw burning substances from vehicles.

The first three degrees of arson are felonies; first degree arson has a maximum punishment of 20 years, aggravated arson a maximum of 30 years, second degree a maximum of 10 years, and third degree a maximum of 5 years. If the fire was set with the intent to collect insurance, a fine of twice the amount of the insurance may be imposed for first or second degree arson. Other arson crimes are misdemeanors.

Property Destruction and Defacement

A person who knowingly destroys or damages the property of another is guilty of property destruction and defacement. The punishment depends upon the amount of injury to the property. If it is $500 or more, the crime is a felony punishable by imprisonment for not more than 10 years and a fine of not more than $10,000. If less than $500, the crime is a misdemeanor punishable by imprisonment for not more than 6 months, and a fine not to exceed $750.

A person who intentionally destroys or defaces any landmark or boundary marker is guilty of a misdemeanor. Littering, which consists of placing, throwing, scattering, or depositing garbage, debris, refuse or other material on the property of another, is a misdemeanor. The littering statute provides that the operator of a vehicle on Wyoming roads or highways is responsible for anything ejected from the vehicle.

Cruelty to animals includes overworking, torturing, beating, or unnecessarily killing animals, or failing to provide them with necessary food, drink and shelter. Cruelty to animals is a misdemeanor punishable by imprisonment for not more than 6 months, and a fine not to exceed $750. Aggravated cruelty to animals includes training dogs or birds to fight, and causing them to engage in fights. It is a felony punishable by imprisonment for not more than 2 years, and a fine of not more than $5000.

Burglary

At English common law, burglary was the braking and entering of the dwelling house of another in the nighttime with the intent to commit a felony (including larceny) inside. Modern statutes have broadened the crime of burglary to eliminate the nighttime requirement, and to include a large variety of structures and vehicles.

The elements of the crime of burglary are:

1. the defendant
2. without authority
3. entered or remained in a building, occupied structure or vehicle or separately secured or occupied portion thereof
4. with intent to commit larceny or a felony therein

A person is guilty of aggravated burglary if in the course of committing burglary the person:

1. is or becomes armed with a deadly weapon or simulated deadly weapon; or
2. knowingly or recklessly inflicts bodily injury upon another person; or
3. attempts to inflict bodily injury upon another person.

Other crimes relating to the unauthorized entry of the property of another include criminal entry, criminal trespass, and breaking into coin machines. These crimes are misdemeanors.

Finally, a person is guilty of possession of burglar's tools if he possesses any explosive or tool designed or commonly used for forcible entry, with the intent to use the explosive or tool in the commission of a crime involving forcible entry. Possession of burglar's tools is punishable by imprisonment for up to 3 years, a fine of up to $3,000, or both.

Larceny and Related Offenses

Stated simply, larceny is stealing the property of another. It is committed when a person takes and carries away the property of another with the intent to deprive the owner of the property.

The elements of the crime of larceny are:

1. the defendant
2. takes and carries, leads or drives away
3. the property of another person
4. with intent to deprive the owner or lawful possessor of the property.

"Deprive" means to keep the property permanently or for so long as to reduce the major part of its value, to keep it intending to restore it only upon payment of a reward, or to dispose of it in a manner that the owner will probably not recover it.

Larceny may also be committed if a person who has been entrusted with the possession of property converts it to his own use; that is, the person deals with the property in a manner inconsistent with the rights of the owner, in a way intended to deprive the owner of the property.

The crime of livestock rustling is committed if a person steals "any horse, mule, sheep, cattle, buffalo or swine."

Larceny, and livestock rustling, are felonies punishable by imprisonment for not more than 10 years, a fine of $10,000, or both, if the value of the property is $500 or more. If the value of the property is less than $500, the crime is a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than $750, or both.

Receiving stolen property is committed when a person buys, receives, conceals or disposes of property which he knows, believes, or has reasonable cause to believe was obtained in violation of law. The punishment is the same as for larceny. Thus a person who buys "hot goods" from a thief, knowing or having reason to know that the property is stolen, is guilty of this crime.

Shoplifting is committed when a person conceals or takes possession of property offered for sale in a store without the knowledge or consent of the owner, intending to keep it as his or her own without paying for it. It is also a crime to alter, change or remove the price tag on goods in a store, with intent to obtain the goods for less than the original marked price. A merchant who has reasonable cause to believe that a person who is shoplifting or of altering, changing or removing price tags, may detain that person for a reasonable time for questioning and investigation. The penalties for shoplifting and altering, changing or removing price tags are the same as for larceny.

Other larceny crimes include defrauding an innkeeper, by obtaining food, drink or lodging intending not to pay for them; obtaining property by false pretenses; obtaining services by fraud; and fraudulent use of telephones and other telecommunications devices with intent to avoid payment.

Computer Crimes

Wyoming has a special statute on computer crimes, which makes it a felony to modify, damage or destroy computer equipment or software, or computer data. It is also a felony to use the computer of another knowingly and without authorization.

Fraud

Fraud crimes are crimes of deception. Forgery is the making or altering of a writing with the intent to defraud another person. "Defraud" means to cheat or trick another person to transfer money or property or do some other act, as by inducing another person to rely upon something which is false as though it were genuine. Other forms of fraud include making false statements as to the value of property, or of the condition of one's finances. Thus if a person who applies for a loan makes a false statement as to how much he or she earns, or how much debt is owed, with the intention that the lender will rely on that statement in making the loan, fraud is committed. Most crimes of fraud are felonies.

Another form of fraud is impersonating a peace officer with the intent to compel another to take some action against his or her will.

Check Fraud

"Bad checks" are a substantial problem for merchants. The usual form of bad check is one which is not paid by the bank because there is not sufficient money in the account. Fraud by check is committed when a person issues a check to obtain property or pay a debt, knowing that there are not funds in the bank to pay the check, and in fact the check is not paid by the bank.

If the check was for less than $500, fraud by check is a misdemeanor. If it was for more than $500, or if two or more checks totaling $500 were given within 60 days, the crime is a felony punishable by imprisonment for not more than 10 years, and a fine of not more than $10,000.

A person who gives a bad check, which is not paid by the bank, must repay the person to whom the check was given, including a collection fee of not more than $15.00. If repayment is not made within 30 days, the amount rises to twice the face amount of the check (but not less than $50), plus collection costs and attorney fees.

Credit Card Fraud

A person who, with intent to defraud another, uses a credit card without authority, or which is revoked, cancelled or expired, or which is falsified or altered, is guilty of credit card fraud.

Where property or services with a value of $500.00 or more have been obtained by credit card fraud, the punishment is up to 10 years imprisonment, a fine of up to $10,000, or both. If the value of the property or services is less than $500.00, the crime is a misdemeanor punishable by up to 6 months imprisonment, a fine of up to $750.00, or both.

Offenses Against Morals

Offenses against morals include:

1. prostitution or patronizing a prostitute;
2. public indecency in sexual matters;
3. obscenity;
4. bigamy, incest and child abandonment; and
5. desecrating graves and bodies.

Offenses Against Public Administration

Offenses against public administration include:

1. offenses by officials such as bribery or soliciting bribes, wrongful taking of public property, failure to account for public funds, and mistreating persons in public institutions;
2. interfering with government operations, including resisting arrest, false reporting to authorities, escape, and taking controlled substances or weapons into jails, prisons, or mental hospitals; and
3. perjury or false swearing, improperly influencing witnesses and jurors, and failure to appear or testify in court.

Offenses Against Public Peace

Offenses against public peace include:

1. fighting in public, breach of the peace, or obscene telephone calls;
2. creating nuisances; and
3. obstructive or disruptive conduct within governmental facilities.

Offenses Against Public Policy

Offenses against public policy include gambling and profession gambling.

Weapons Offenses

Weapons offenses include:

1. use of a firearm while committing a felony, use or possession of a firearm by a person who has been previously convicted of a violent felony, or possession of a deadly weapon with intent to threaten, assault or injure another person; and
2. sale or delivery of firearms in violation of regulations.

Miscellaneous Offenses

Miscellaneous offenses include:

1. discrimination in the use of public accommodations and facilities or charging for the use of public toilets;
2. neglecting to close fences or gates; and
3. trespassing while skiing, skiing in unsafe areas, or skiing recklessly or while intoxicated.

Sentencing

Crimes punishable by death or by imprisonment for more than one year are felonies. All other crimes are misdemeanors.

The punishment for any crime is to be fixed by the court, within the limits set by the Legislature.

A person convicted of a felony cannot vote or be a juror, or hold any office of honor, profit or trust within Wyoming, unless the conviction is set aside, the person is pardoned, or the person's civil rights are restored by law.

If a person convicted of a violent felony has previously been convicted of two or more felonies in Wyoming or elsewhere, that person is a habitual criminal, and may be punished by a term of 10 to 50 years if convicted of two prior felonies, or for life if convicted of three prior felonies.

Persons convicted of felonies and sentenced to terms of more than one year are confined in the Wyoming State Penitentiary at Rawlins. Persons sentenced to imprisonment for misdemeanors are confined in the county jail.

OFFENSES NOT FOUND IN CRIMINAL CODE

The Wyoming Statutes contain a number of offenses which are not defined in the Criminal Code. These offenses include:

Controlled Substance Offenses

The Wyoming Controlled Substances Act is found in Title 35 of the Wyoming Statutes. Wyoming's statute, like those of other states, is modeled upon the federal Comprehensive Drug Abuse Prevention and Control Act. Five classes of controlled substances are spelled out in the Act, with Schedule I listing those drugs which have the greatest potential for abuse, and Schedule V those with the least potential. Controlled substances include opium and its derivatives (including heroin), cocaine, peyote, and marijuana, as well as man-made substances such as LSD and methamphetamine.

The Act declares that it is a crime for any person, except as authorized by the Act, to manufacture, deliver, or to possess with intent to manufacture or deliver, any controlled substance or any counterfeit controlled substance. Manufacture, delivery or possession with intent to deliver are the most serious crimes. It is also a crime "knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order" of a physician or other authorized medical practitioner.

Alcohol Offenses

It is unlawful for any person to furnish, give or sell any acholic liquor or malt beverage to a person under 21 years of age. Similarly, it is unlawful for any person under 21 to possess any alcoholic liquor or malt beverage, or to be under the influence of alcohol in any public place, street or highway.

Violation is a misdemeanor, punishable by imprisonment not to exceed 6 months, a fine not more than $750, or both.

It is not a violation of the alcohol statutes for a person who is a parent, legal guardian, or family member to sell, furnish or give alcoholic liquor or malt beverage to a person under 21. Nor is it a violation for a person 21 to possess alcohol while in the presence of his or her parent or legal guardian.

In 1990 the Wyoming Legislature provided that when a person under 19 was convicted of any controlled substance or alcohol offense, his or her driver's license would be suspended. It was not necessary that the offense had any relationship to the operation of a motor vehicle. The Wyoming Supreme Court, in Johnson v. State Hearing Examiner's Office, 838 P.2d 158 (Wyo. 1992), held that the statute was invalid because it denied due process and equal protection of the laws to young persons.

Tobacco Offenses

Since 1991 the Wyoming Statutes have prohibited persons under 18 years of age from obtaining or possessing tobacco products, including cigarettes, cigars, pipe tobacco, chewing tobacco and snuff. A person who sells, gives away or delivers a tobacco product to a person under 18 is subject to a fine of $50. A person under 18 who purchases or possesses a tobacco product is subject to a fine of $25. Municipalities may also enact ordinances forbidding the sale or possession of tobacco products.

Motor Vehicle Offenses

Motor vehicle offenses are found in Title 31 of the Wyoming Statutes, and include a broad variety of acts relating to the use and ownership of motor vehicles.

One vehicle statute of importance makes "joy-riding" a crime. Joy riding is the unauthorized use of the vehicle of another person. It applies when a person takes a car, truck or motorcycle without authority, simply to use it or drive it around, without any intention to steal it by permanently depriving the owner. Unauthorized use of a vehicle is a misdemeanor punishable by not more than a year in jail, a fine up to $1,000 or both. Because the statute refers to "vehicle is a misdemeanor punishable by not more than a year in jail, a fine up to $1,000, or both. Because the statute refers to "vehicle" and is not limited to motor vehicles, it covers taking non-motorized vehicles such as bicycles and horse-drawn wagons. A separate statute covers unauthorized use of the "horse, ass, mule, or any buggy or other vehicle" of another.

Other Offenses

Numerous other offenses, principally of a regulatory nature, are found throughout the Wyoming Statutes.

CRIMINAL DEFENSES

The state has the burden in every case of proving the elements of the crime beyond a reasonable doubt. Criminal defenses are basically of two kinds: those which attack the existence of some element of the crime, and those which are offered to justify or excuse the commission of the crime. Thus a defense of alibi -- that the defendant was somewhere else when the crime was committed -- is a defense which attacks an element of the crime. On the other hand, the defense of duress admits that the defendant committed the crime, but seeks to excuse it on the ground that the defendant couldn't help doing what he did.

Generally the jury must decide whether to accept or reject a defense, since most defenses are based upon facts which are to be considered by the jury.

If a defense is successful, the result may be acquittal of the defendant, or it may be conviction of a different or lesser crime.

Mental Illness or Deficiency

A person who suffered from mental illness or mental deficiency to such a degree that at the time of the criminal conduct "he lacked substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law" is not responsible for the criminal conduct. This is known as the "insanity" defense. It is based upon the principle that persons should not be held criminally responsible and punished for conduct over which they have no control.

Intoxication

The fact that the defendant was voluntarily intoxicated by drugs or alcohol at the time a crime was committed is no defense to the crime. An exception exists as to what are called "specific intent" crimes, where an element of the crime is that the defendant act with the intention to achieve some additional purpose. Thus burglary, which requires that the defendant make an unauthorized entry into a occupied structure with the intent to commit a felony or larceny, is a specific intent crime. If the defendant was so drunk that he was unable to form the specific intent required by the crime, he may defend on the grounds of voluntary intoxication. Other specific intent crimes include first degree murder, kidnapping, arson, and larceny. On the other hand, if a person becomes intoxicated involuntarily, as where someone has drugged his food, then if that intoxication made it impossible for him to have any criminal intent at all, the person has a defense to any crime requiring intent.

Automatism or Unconsciousness

Wyoming recognizes the defense of traumatic automatism or unconsciousness. If a person suffers an injury to the head, which renders the person unconscious in the sense that the person does not know and cannot control what he or she is doing, so that the person acts like an automaton, the person has a defense to any acts which are committed while that state exists. Juries are usually skeptical about this defense, so that it rarely succeeds.

Mistake

If a person is mistaken as to some essential fact necessary to constitute the crime charged, then that mistake may be a defense to the crime. For example, if a person in a restaurant picks up my sandwich which he believes is his and eats it, he will not be guilty of larceny of my sandwich. Of if a person gets into a car which he thinks is his and drives off, he cannot be convicted of larceny or joy-riding, because he did not intend to take someone else's car. The important thing is that the jury must be convinced that the defendant really was mistaken about what he did.

Duress

Where a person is threatened by another with bodily harm or death unless he does acts which constitute a crime, the defense of duress may be available to him. The test is whether a person of reasonable firmness would be able to resist the treat. The defense is not available to charges of murder. The Wyoming Supreme Court has not decided any cases dealing with the duress defense.

Necessity

Where a person is confronted with a "choice of evils" by which he is faced with either breaking the criminal law or suffering other harmful consequences, the law may recognize a defense of necessity. For example, a person who is caught in a blizzard in the mountains and breaks into a cabin and consumes food and fuel there has the defense of necessity to a charge of burglary or of criminal entry. No Wyoming decisions have recognized the defense of necessity.

Self-Defense

A person may use reasonable force to protect himself or others from bodily harm. The defense is based on necessity. Before deadly force may be used in self-defense, it must appear that the defendant had a reasonable belief that he was in great peril of death or serious bodily harm, so that use of deadly force was necessary to avoid that peril. A person who has initiated a confrontation may not claim self-defense unless he has attempted to withdraw from the situation before using force. Further, a person has the obligation to avoid the use of force against others if reasonably possible -- to the extent of retreating if he can safely do so.

A person may generally defend others under the same conditions as he may defend himself. The person must reasonably believe that the person defended is the subject of an unlawful attack by another.

Self-defense is generally not available to defend oneself against arrest by a law enforcement officer, even if the arrest is not lawful. As the Wyoming Supreme Court has said, "Even if the person arrested is absolutely certain that his arrest is a mistake, he should nevertheless cooperate with the arresting officer and employ remedies available through the judicial system." Roberts v. State, 711 P.2d 1131, 1134 (Wyo. 1985).

Property

A person may use force to defend his property against invasion, taking, or destruction by others. However, no more force than is reasonably necessary may be used, and the use of deadly force is not reasonable except in cases where one is protecting his home.

Entrapment

Where a person who has no predisposition to commit a crime is induced by law enforcement officials to commit the crime, the defense of entrapment may be available, so long as it is solely the result of "creative activity" by the law enforcement officials. Entrapment is seldom successful as a defense.

Statute of Limitations

As indicated earlier, Wyoming has no statute of limitations controlling criminal prosecutions. Therefore there is no statute of limitations defense available in Wyoming.

A TABLE OF THE PRINCIPAL OFFENSES AND PUNISHMENTS IN WYOMING

CRIME	DESCRIPTION OF CRIME	MAXIMUM PUNISHMENT
	WYOMING CRIMINAL CODE, TITLE 6	
	CHAPTER 1. GENERAL PROVISIONS	
Art. 3. Inchoate Offenses		
§ 6-1-301. Attempt	Intending to commit crime, taking substantial step towards committing it.	(Same as most (serious crime (attempted, (solicited, or (conspired for.
§ 6-1-302. Solicitation	Commanding, encouraging or facilitating commission of crime, crime not committed.	
§ 6-1-303. Conspiracy	Agreeing to commit crime, and doing overt act toward commission of the crime.	
	CHAPTER 2. OFFENSES AGAINST PERSONS	
Art. 1. Homicide		
§ 6-2-101. Murder in the First Degree	Killing purposely and with premeditated malice, or in attempt to commit, or commission of violent felony.	Death or Life
§ 6-2-104. Murder in the Second Degree	Killing purposely and maliciously, but without premeditation.	20 Years to Life
§ 6-2-105. Manslaughter	Voluntary: Without malice, upon a sudden heat of passion. Involuntary: Without malice, but recklessly.	20 Years
§ 6-2-106. Homicide by Vehicle	Causing death while operating vehicle in criminally negligent manner.	1 Year, $2,000.
§ 6-2-106. Aggravated Homicide by Vehicle	Causing death while operating vehicle under influence of alcohol or drug, or while operating vehicle recklessly.	20 Years
§ 6-2-107. Criminally Negligent Homicide	Causing death by conduct amounting to criminal negligence.	1 Year, $2,000
Art. 2. Kidnapping		
§ 6-2-201. Kidnapping	Removing or confining another with intent to collect ransom, hold as shield or hostage, facilitate felony, or injure or terrorize.	If released unharmed in safe place, 20 Years. If not, 20 Years to Life.
§ 6-2-202. Felonious Restraint	Unlawfully restraining and exposing another to risk of serious bodily injury, or holding another in involuntary servitude.	5 Years
§ 6-2-203. False Imprisonment	Unlawfully restraining another so as to interfere substantially with his liberty.	1 Year, $1,000
§ 6-2-204. Interference with Custody	Taking minor from custody of parent, guardian or lawful custodian.	5 Years if not by parent, or if child is concealed; otherwise 1 Year and 1 Day.
Art. 3. Sexual Assault		
§ 6-2-302. First Degree Sexual Assault	Sexual intrusion by force or threats or with helpless victim.	50 Years.
§ 6-2-303. Second Degree Sexual Assault	Sexual intrusion by threats as to future, by person in position of authority, by fraud; sexual intrusion of victim under 12; sexual contact causing serious bodily injury.	20 Years
§ 6-2-304. Third Degree Sexual Assault	Sexual intrusion of victim under 16; sexual contact of victim under 12.	5 Years
§ 6-2-305. Fourth Degree Sexual Assault	Sexual contact without sexual intrusion and without serious bodily harm.	1 Year
Art. 4. Robbery and Blackmail		
§ 6-2-401. Robbery	Inflicting bodily injury, or threatening or placing in fear of immediate bodily injury, in course of committing larceny.	10 Years

§ 6-2-401. Aggravated Robbery	Use of deadly weapon or simulated deadly weapon, or causing serious bodily injury during robbery.	25 Years
§ 6-2-402. Blackmail	Obtaining property or affecting conduct by threat of bodily injury, injury to property, or threat to accuse of crime or immorality.	10 Years
§ 6-2-402. Aggravated Blackmail	Causing bodily injury in course of committing blackmail.	25 Years

Art. 5. Assault and Battery

§ 6-2-501. Simple Assault	Attempting to cause bodily injury to another, with ability to do so.	$750
§ 6-2-501. Battery	Unlawfully touching another in rude, insolent or angry manner, or intentionally or recklessly causing bodily injury to another.	6 Months, $750
§ 6-2-502. Aggravated Assault and Battery	Intentionally or recklessly causing serious bodily injury to another, or causing bodily injury to woman known to be pregnant, or attempting to cause or causing injury with deadly weapon; threatening another with deadly weapon.	10 Years
§ 6-2-503. Child Abuse	Intentionally or recklessly inflicting mental or physical injury on child under 16, by adult or person at least 6 years older.	5 Years
§ 6-2-504. Reckless Endangering	Recklessly placing another in danger of death or serious bodily injury; pointing firearm at or in direction of another.	1 Year
§ 6-2-505. Terroristic Threats	Threatening to commit violent felony to cause evacuation of building.	3 Years
§ 6-2-506. Stalking	Engaging in course of conduct intended to harass another person by threats or threatening conduct.	6 Months, $750
§ 6-2-506. Felony Stalking	Second conviction of stalking within 5 years; stalking which causes serious bodily harm, or stalking in violation of court order.	10 Years

CHAPTER 3. OFFENSES AGAINST PROPERTY

Art. 1. Arson

§ 6-3-101. First Degree Arson	Starting fire or causing explosion with intent to destroy or damage occupied structure.	20 Years, $20,000 or Twice Insurance
§ 6-3-101. Aggravated Arson	Starting fire or causing explosion with intent to destroy occupied structure, and serious bodily injury results.	30 Years, $20,000 or Twice Amount of Insurance
§ 6-3-102. Second Degree Arson	Starting fire or causing explosion with intent to collect insurance.	10 Years, Twice Amount of Insurance
§ 6-3-103. Third Degree Arson	Starting fire or causing explosion and intentionally or recklessly places another in danger of bodily injury or causes damage to property with value of $200 or more.	5 Years, $5,000
§ 6-3-104. Fourth Degree Arson	Starting fire or causing explosion and intentionally or recklessly destroys or damages property with value of less than $200.	1 Year, $750
§ 6-3-105. Negligently Burning Woods	Setting fire to woods, prairie or grounds or letting fire spread to property of another, acting with criminal negligence.	6 Months, $750
§ 6-3-106. Failure to Extinguish Fire	Lighting fire in woods or prairie and failing to extinguish or contain it.	$750
§ 6-3-107. Throwing Burning Substance from Vehicle		6 Months, $750
§ 6-3-111. Possession, Manufacture, Sale of Explosives	Possessing, manufacturing, transporting, selling or delivering explosive or explosive device with intent to injure or endanger life or well-being of another.	10 Years, $10,000
	Possessing, etc. with intent to damage property.	5 Years, $5,000
	Threatening or intimidating another with real or feigned explosive or device.	5 Years, $5,000
§ 6-3-112. Preventing or Obstructing Extinguishing of Fires	Willful injury to firefighting equipment or interference with persons fighting fires.	1 Year, $1,000

Art. 2. Property Destruction and Defacement

§ 6-3-201.	Property Destruction and Defacement	Defacing, injuring or destroying property of another without consent of the owner: Cost of restoration less than $500	6 months, $750
		Cost of restoration $500 or more	10 Years, $10,000
§ 6-3-202.	Altering Landmarks	Defacing, altering, or removing monuments and landmarks.	6 Months, $750
§ 6-3-203.	Cruelty to Animals	Overworks, cruelly beats, abandons, deprives of food, drink, protection.	6 Months, $750
§ 6-3-203.	Aggravated Cruelty to Animals	Keeps or trains fowls or dogs to fight, or arranges fights.	2 Years, $5000
§ 6-3-204.	Littering	Placing or throwing waste material on property of another.	6 Months, $750

Art. 3. Burglary

§ 6-3-301.	Burglary	Unauthorized entry into building, occupied structure or vehicle with intent to commit larceny or a felony.	10 Years, $10,000
§ 6-3-301.	Aggravated Burglary	In course of burglary becomes armed with or uses deadly weapon or simulated deadly weapon, inflicts or attempts to inflict injury on another.	25 Years, $50,000
§ 6-3-302.	Criminal Entry	Unauthorized entry into building, occupied structure, or vehicle.	6 Months, $750
§ 6-3-303.	Criminal Trespass	Entering or remaining on land of another with knowledge that there is no authority to do so, or after being notified not to enter or to depart.	6 Months, $750
§ 6-3-304.	Possession of Burglar's Tools	Possessing tools for forcible entry, intending to commit crime with them.	3 Years, $3000
§ 6-3-305.	Breaking of Coin Machine	Breaking or entering coin machine with intent to commit larceny.	1 Year, $1000
§ 6-3-306.	Forcible Entry or Detainer	Violently taking or keeping possession without authority of law.	$750

Art. 4. Larceny

§ 6-3-402.	Larceny	Stealing, taking and carrying, leading or driving away property of another with intent to deprive the owner or lawful possessor, or converting entrusted property with intent to steal.	
		Property with value less than $500	6 Months, $750
		Property with value of $500 or more	10 Years, $10,000
§ 6-3-402.	Livestock Rustling	Stealing horse, mule, sheep, cattle, buffalo or swine.	10 Years, $10,000
§ 6-3-403.	Wrongful Taking or Disposing of Property	Buying, receiving, concealing or disposing of property defendant knows or has cause to believe was obtained in violation of law.	Same as Larceny
§ 6-3-404.	Shoplifting	Concealing or taking property offered for sale by store, without consent of owner, intending to convert it without paying.	Same as Larceny
§ 6-3-406.	Defrauding an Innkeeper	Procuring food, drink or accommodations without paying for them, with intent to defraud.	Same as Larceny
§ 6-3-407.	Obtaining Property by False Pretenses	Obtaining property by false statements, with intent to defraud.	Same as Larceny
§ 6-3-408.	Theft of Services	Obtaining services available only for compensation, without paying for them, and with intend to defraud.	Same as Larceny
§ 6-3-409.	Fraudulently Obtaining Telecommunications Services	Obtaining telephone and similar services, with intent to defraud, by use of unauthorized or false number or other trick or device.	6 Months, $750

Art. 5. Computer Crimes

§ 6-3-502.	Crimes Against Intellectual Property	Unauthorized modification, destroying or disclosing computer data, programs or supporting documents.	3 Years, $3,000
		As part of scheme to defraud.	10 Years, $10,000
§ 6-3-503.	Crimes Against Computer Equipment or Supplies	Unauthorized modification of computer equipment or supplies.	6 Months, $750
		As part of scheme to defraud.	10 Years, $10,000
§ 6-3-504.	Crimes Against Computer Users	Unauthorized accessing of computer, or unauthorized denial of access.	3 Years, $3,000
		As part of scheme to defraud.	10 Years, $10,000

Art. 6. Fraud

§ 6-3-602.	Forgery	Making false writing, altering writing, or uttering false or altered writing.	10 Years, $10,000
§ 6-3-603.	Possession of Forged Writings and Forgery Devices	Possessing forged writing with intent to use it to defraud, or possessing forgery devices intending to use them to commit forgery.	5 Years, $5,000
§ 6-3-604.	Fraud Against Testamentary Instruments	Fraudulently stealing, altering, defacing or secreting wills or government records.	10 Years, $10,000
§ 6-3-605.	Operation of Coin Machine by Slug	Using slug in coin machine, or obtaining property from coin machine without paying, or manufacturing and distributing slugs.	6 Months, $750
§ 6-3-606.	Impersonation of Peace Officer	Impersonating peace officer with intent to compel another to act.	1 Year, $1,000
§ 6-3-607.	Defrauding Creditors	Transferring, concealing or removing mortgaged property.	
		Property valued at less than $500	6 Months, $750
		Property valued at $500 or more	10 Years, $10,000
§ 6-3-608.	Fraudulent Use of Materials	Buying materials on credit, and falsely stating where they will be used.	6 Months, $760
§ 6-3-608.	Fraudulent Obtaining Money	Contractor falsely certifying by affidavit that materialmen and subcontractors have been paid.	5 Years, $10,000
§ 6-3-609.	Sports Bribery	Bribing participant or official in sports contest, or taking bribe.	5 Years, $5,0000
§ 6-3-610.	Mislabeling Merchandise	Knowingly marking commodity in false, misleading or deceptive manner.	$750
§ 6-3-611.	False, Misleading or Deceptive Advertising	Making false advertisement with intent to promote purchase or sale of property or acceptance of employment.	$750
§ 6-3-612.	False Written Statements to Obtain Property or Credit	Knowingly making false written statement of himself or another person, with intent that statement be relief on.	5 Years, $5,000
§ 6-3-613.	False Representation of Value of Shares, Bonds or Property	Knowingly and with intent to defraud, making statement concerning financial condition or property which is false or exaggerated.	5 Years, $10,000

Art. 7. Check Fraud

§ 6-3-702.	Fraud by Check	Fraudulently issuing check which is not paid because of insufficient funds.	
		Check for less than $500	6 Months, $750
		Check for $500 or more	10 Years, $10,000

Art. 8. Credit Card Fraud

§ 6-3-802.	Unlawful Use of Credit Card	Using credit card of another without authority, or card that has been cancelled or expired, or that is false or altered.	
		Property or services obtained with value less than $500	6 Months, $750
		Property or services obtained with value of $500 or more	10 Years, $10,000

CHAPTER 4. OFFENSES AGAINST MORALS

Art. 1. Prostitution

§ 6-4-101.	Prostitution	Offering or performing sexual intrusion for money or property.	6 Months, $750
§ 6-4-102.	Patronizing a Prostitute	Offering to pay another for acts of sexual intrusion.	6 Months, $750
§ 6-4-103.	Promoting Prostitution	Enticing or procuring another person for prostitution, taking money from prostitute.	3 Years, $3,000 Person under 19: 5 Years, $5,000

Art. 2. Public Indecency

§ 6-4-201.	Public Indecency	Sexual acts in public, or acts with intent to arouse sexual desire.	6 Months, $750

Art. 3. Obscenity

§ 6-4-302.	Promoting Obscenity	Producing or possessing obscene material with intent to disseminate. Dissemination to adult. Dissemination to minor.	 1 Year, $1,000 1 Year, $6,000

Art. 4. Offenses Against the Family

§ 6-4-401.	Bigamy	Being married and knowing spouse is alive, and marrying again.	5 Years, $5,000
§ 6-4-402.	Incest	Sexual intrusion or sexual contact with ancestor, descendant, or brother or sister of whole or half blood.	5 Years, $5,000
§ 6-4-403.	Abandoning or Endangering Children	Abandoning children, violating duty of care, protection or support, or causing child to violate the law.	1 Year, $1,000
§ 6-4-404.	Violation of Protection Order	Violation of court order protecting against domestic abuse.	90 Days, $500

Art. 5. Desecrating Graves and Bodies

§ 6-4-501.	Opening Graves and Removing Bodies	Removing body from grave without consent of near relations of deceased.	$750
§ 6-4-502.	Mutilation of Dead Human Bodies	Dissecting or mutilating dead human body.	3 Years, $5,000

CHAPTER 5. OFFENSES AGAINST PUBLIC ADMINISTRATION

Art. 1. Offenses by Public Officials

§ 6-5-102.	Bribery	Offering benefit to public servant in exchange for favorable action, of acceptance of benefit by public servant for such purpose.	10 Years, $5,000
§ 6-5-103.	Compensation for Past Official Behavior	Soliciting or accepting pecuniary benefit by public servant for past official acts.	10 Years, $5,000
§ 6-5-104.	Soliciting Unlawful Compensation	Soliciting or accepting by public servant of greater fee or other pecuniary benefit than allowed by law.	10 Years, $5,000
§ 6-5-105.	Designation of Supplier	Public servant requiring bidder or contractor to obtain goods or services from a particular supplier.	6 Months, $750
§ 6-5-106.	Conflict of Interest	Public servant who receives any advantage other than permitted by law for letting contract or appointing person to employment.	$5000
§ 6-5-107.	Official Misconduct	Public servant who commits unauthorized acts or refuses to act.	$750
§ 6-5-108.	Issuing False Certificate	Public servant issuing false certificate or official written statement, with intent to obtain benefit or cause harm to another.	10 Years, $10,000
§ 6-5-110.	Wrongful Appropriation of Public Property	Public servant converting public property to his own temporary use.	1 Year, $1000
§ 6-5-111.	Failure or Refusal to Account for Property	Public servant who fails or refuses to account for and deliver public property when legally required to do so.	5 Years, $5000
§ 6-5-112.	Mistreating Persons in Institutions	Public servant who treats inmates or patients with unnecessary severity or fails to act as law requires regarding persons in institution.	3 Years, $3,000
§ 6-5-114.	Improper Issuance of Certificate by Notary Public	Notary public affixing seal to instrument not properly acknowledged.	6 Months, $750
§ 6-5-115.	Neglect to Perform Duty in Criminal Case	Clerk, sheriff, coroner or other official who refuses or neglects to perform duty in criminal case, or who delays serving warrant.	6 Months, $500
§ 6-5-116.	Public Officer Acting Before Qualifying	Public officer who performs any duty of his office before taking oath and giving bond as required by law.	$1000
§ 6-5-117.	Public Officer Demanding Kickback from Deputy	Public officer who requires deputy to divide fees or to give officer part of fees earned by deputy.	3 Years, $5000

Art. 2. Hindering Government Operations

§ 6-5-202.	Accessory After the Fact	Assisting a person with intent to hinder, delay or prevent discovery, arrest, or prosecution for crime.	
		Crime is felony and defendant is not relative of offender	3 Years, $3,000
		Crime is felony and defendant is relative of offender	6 Months, $750
		Crime is misdemeanor and defendant is not relative of offender	6 Months, $750
§ 6-5-203.	Compounding	Taking property upon agreement to conceal commission of crime or to hinder prosecution of crime.	1 Year, $2000
§ 6-5-204.	Interference with Peace Officer	Obstructing, impeding or interfering with peace officer engaged in lawful performance of official duties.	1 Year, $1,000
§ 6-5-204.	Felony Interference with Peace Officer	Intentionally causing or attempting to cause bodily injury to peace officer engaged in lawful performance of official duties.	10 Years
§ 6-5-205.	Running Manned Roadblock	Failing to stop at roadblock supervised by uniformed officer.	6 Months, $750
§ 6-5-206.	Escape from Official Detention	Escaping from official detention following felony conviction.	10 Years
		Escaping from official detention after arrest or misdemeanor conviction.	3 Years, $3,000
§ 6-5-207.	Escape by Violence or Assault or While Armed	Escaping from official detention by violence or armed or by assault on person in charge of detention.	10 Years
§ 6-5-208.	Taking Controlled Substances into Institutions	Taking controlled substance or intoxicating liquor into jail, prison, boys' or girls' school, private correctional facility, or state hospital.	3 Years, $3,000
§ 6-5-209.	Taking Deadly Weapons into Institutions	Taking or passing deadly weapon into jail, prison, boys' or girls' school, private correctional facility, or state hospital.	10 Years, $10,000
§ 6-5-210.	False Reporting to Authorities	Falsely reporting commission of crime.	6 Months, $750
		Falsely reporting emergency exists.	1 Year, $1,000
		Falsely reporting emergency exists, resulting in serious bodily injury.	5 Years, $5,000

Art. 3. Perjury and Criminal Falsification

§ 6-5-301.	Perjury in Judicial, Legislative or Administrative Proceedings	Knowingly testifying falsely under oath or making false affidavit as to material matter.	5 Years, $5,000
§ 6-5-303.	False Swearing in Nonjudicial or Nonadministrative Proceeding	Knowingly making false certificate or statement, under oath, other than in judicial or administrative proceeding.	2 Years, $2,000
§ 6-5-304.	Offering Mining Claims for Filing without Meeting Legal Prerequisites	Offering location certificate where there has been no proper physical location of mining claim or notice thereof.	2 Years, $2,000
§ 6-5-305.	Influencing, Intimidating or Impeding Jurors, Witnesses and Officers	Attempting by force or threats to influence, intimidate or impede a juror, witness, or officer in the discharge of his duty.	10 Years, $5,000
		Obstructing or impeding court proceedings by force or violence.	1 Year, $1,000
§ 6-5-306.	Refusal to Appear or Testify; Avoidance of Service	Refusing to obey subpoena, hiding or leaving residence to avoid being served with subpoena, or refusing to take oath or to testify.	6 Months, $750
§ 6-5-307.	Usurpation	Falsely claiming to be public servant, with intention to induce another to act or submit to official authority.	6 Months, $750

CHAPTER 6. OFFENSES AGAINST PUBLIC PEACE

Art. 1. Disturbances of Public Order

§ 6-6-101.	Fighting in Public	Fighting by agreement in public.	6 Months, $750
§ 6-6-102.	Breach of the Peace	Using threatening, abusive or obscene language or violent actions with knowledge or cause to believe peace will be disturbed.	6 Months, $750
§ 6-6-103.	False or Anonymous Telephone Calls	Making telephone calls anonymously or under false name and using obscene language or suggesting lewd act intending to offend or making repeated harassing calls or threatening calls.	1 Year, $1,000
§ 6-6-104.	Unlawful Automated Telephone Solicitation	Using automated dialing device and playing recorded messages.	6 Months, $750

Art. 2. Nuisances

§ 6-6-208.	Contempt for Violation of Nuisance Injunction	Violation of court injunction issued to stop nuisance.	6 Months, $1000
§ 6-6-209.	Maintaining Public Nuisance	Using structure, boat or vehicle for gambling, prostitution or sale of intoxicating liquor in violation of law.	6 Months, $750

Art. 3. Unlawful Conduct Within Governmental Facilities

§ 6-6-302.	Obstructive or Disruptive Conduct within Governmental Facilities	Obstructing or disrupting activities within public lands or buildings.	60 Days, $750
§ 6-6-303.	Refusing to Desist or Remove Oneself from Facilities	Refusing to stop conduct within public facilities, or to leave facilities, upon request of authorized person.	60 Days, $750

CHAPTER 7. OFFENSES AGAINST PUBLIC POLICY

Art. 1. Gambling

§ 6-7-102.	Gambling	Risking property for gain contingent upon chance or gambling device.	6 Months, $750
§ 6-7-102.	Professional Gambling	Aiding or inducing others to gamble, or participating in gambling when, by other than skill or luck, greater chance to win exists.	3 Years, $3000

CHAPTER 8. WEAPONS OFFENSES

Art. 1. Weapons Offenses

§ 6-8-101.	Use of Firearm while Committing Felony	Using firearm while committing felony.	Adds 10 Years to Punishment
§ 6-8-102.	Use or Possession of Firearm by Person Convicted of Violent Felony	Using or knowingly possessing firearm by person convicted of violent felony.	3 Years, $5,000
§ 6-8-103.	Possession, Manufacture or Disposition of Deadly Weapon with Unlawful Intent	Possessing, manufacturing, transporting, repairing, or selling dealing weapon with intent to threaten or injure another.	5 Years, $1000
§ 6-8-104.	Wearing or Carrying Concealed Weapon	Wearing or carrying concealed weapon.	$750

Art. 2. Firearms Regulation

§ 6-8-204.	Firearms Register; Failure to Comply	Failing to keep record of firearms which come into possession of dealer.	6 Months, $750

CHAPTER 9. MISCELLANEOUS OFFENSES

Art. 1. Discrimination

§ 6-9-101.	Equal Enjoyment of Public Accommodations	Denial of accommodations which are public in nature, on account of race, religion, color, sex or national origin.	6 Months, $750
§ 6-9-102.	Discrimination Prohibited	Denial of right to life, liberty, pursuit of happiness or necessities of life because of race, color, sex, creed or national origin.	6 Months, $750
§ 6-9-103.	Charging for Public Toilet Facilities	Charging for toilet facilities generally available to the public.	$100

Art. 2. Other

§ 6-9-201.	Trespass on Closed or Unsafe Ski Areas	Skiing on closed lands, or lands posted as unsafe.	$100

§ 6-9-202.	Neglect to Close Fences	Opening and failing to close gate or replace bars in fence which crosses road, river, stream or ditch.	$750

Art. 3. Skier Safety

§ 6-9-301.	Skier Safety; Skiing While Impaired	Skiing under the influence of alcohol or drugs, or in reckless manner.	20 Days, $200

ALCOHOL OFFENSES, TITLE 12

§ 12-6-101.	Sale or Possession; Public Drunkenness; Falsification of Identification	Selling, furnishing, or giving any alcoholic liquor or malt beverage to person under 21; possessing alcoholic or malt beverage by person under 21; person under 21 being drunk or under the influence on any street or highway or in any public place; person under 21 using false identification to obtain alcoholic or malt beverage; any person aiding or abetting.	6 Months, $750
§ 12-6-102.	Transporting or Possessing in Motor Vehicle with Intent to Furnish to Minor	Transporting or possessing alcoholic liquor or malt beverage with intent to furnish to person under 21 who is operating or occupying a motor vehicle.	1 Year, $1,000

TOBACCO OFFENSES, TITLE 14

§ 14-3-301.	Definitions	"Tobacco products" means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.	
§ 14-3-302.	Prohibited Sales or Delivery	No person shall sell, offer for sale, give away or deliver tobacco products to any person under the age of 18 years.	$50
§ 14-3-304.	Purchase by Minors Prohibited	No person under the age of 18 years shall purchase tobacco products, or misrepresent his identity or age, or use any false or altered identification to purchase tobacco products.	$25
§ 14-3-305.	Possession or Use by Minors Prohibited	No person under the age of 18 may possess or use tobacco products.	$25

MOTOR VEHICLE OFFENSES, TITLE 31

NOTE: ONLY SELECTED MOTOR VEHICLE OFFENSES ARE SET OUT HERE. MANY OTHER OFFENSES CAN BE FOUND IN TITLE 31.

§ 31-5-225.	Fleeing or Attempting to Elude Police Officers	Failing to stop or fleeing when signalled to do so by police officer.	90 Days, $750
§ 31-5-229.	Reckless Driving	Driving in willful or wanton disregard for safety or persons or property.	6 Months, $750
§ 31-5-233.	Driving or Having Control of Vehicle while under Influence	Driving or having control of vehicle while under influence of alcohol, a controlled substance, or both, to a degree which renders the person incapable of safely driving; or driving with an alcohol concentration of 0.10 % or more.	6 Months, $750
		For subsequent conviction within 5 years.	6 Months, $750, at least 7 days in jail.
		Driving under influence and causing serious bodily injury.	1 Year, $5,000
		Second conviction for driving under influence and causing serious bodily injury.	20 Years
§ 31-11-102.	Unauthorized Use of Vehicle	Taking vehicle temporarily without authority of owner. ("Joy riding.")	1 Year, $1,000

CHAPTER 7. CONTROLLED SUBSTANCE OFFENSES, TITLE 35

§ 35-7-1031. Unlawful Manufacture or Delivery; Counterfeit Substance; Unlawful Possession	Unlawful for any person to manufacture, deliver or possess with intent to manufacture or deliver, controlled substance.	
	Narcotic drug.	20 Years, $25,000
	Other Schedule I, II or III substance.	10 Years, $10,000
	Schedule IV substances.	2 Years, $2,000
	Schedule V substances	1 Year, $1,000
	Manufacture, delivery, possession with intent to manufacture or deliver counterfeit controlled substance.	Same penalties as controlled substance
	Possession of controlled substance. First offense	6 Months, $750
	Third offense	5 Years, $5,000
§ 35-7-1036. Distribution to Person Under 218; Drug Free School Zones	Distribution by person over 18 to person under 18 who is at least 3 years younger.	Penalties of § 35-7-1033 are Doubles
	For manufacture, delivery, or possession with intent to deliver, within 500 feet of school grounds, if an adult	Additional 2 Years, $1,000

III. JUVENILE LAW IN WYOMING

In 1948 the Wyoming Constitution was amended to authorize the Legislature to provide for "such juvenile delinquency and domestic relations courts as may be needed." The Legislature responded by enacting the Juvenile Court Act of 1951, and since that time there have been Juvenile Courts in Wyoming.

There is a Juvenile Court in each county in Wyoming. The judge of the District Court acts as judge of the Juvenile Court.

JUVENILE COURT JURISDICTION

The Juvenile Court has jurisdiction over minors under the age of 18 who are alleged to be delinquent, in need of supervision, or neglected. The Juvenile Court also has jurisdiction over the parents of children who are alleged to be delinquent, in need of supervision, or neglected.

Generally, if anyone 17 years of age or younger commits a minor criminal act, (e.g. drinking alcohol underage, shoplifting, vandalism) he or she will most likely not appear in the formal juvenile court (district court). Instead those accused of these crimes will appear before a judge of the county court, justice of peace court or municipal court. If the presiding judge does not believe a jail sentence is appropriate, the case will most likely be administered in an informal manner (without appointed attorneys or prolonged trials). After the trail, if the accused either pleads guilty or is found guilty, a fine or an order of community service will be imposed along with a possible suspended jail sentence. This will probably not have to be served so long as there are no future violations of the law.

However, if the person under 18 years of age is accused of a serious misdemeanor or a felony, or if the accused has numerous convictions of the minor misdemeanors described above, then the prosecutor (county attorney or district attorney) will most likely charge the juvenile in the formal juvenile court..

It should also be noted that the prosecuting attorney (county attorney or district attorney) may, with the approval of the district court, prosecute a juvenile as an adult and totally bypass the juvenile court procedure. If, for example, the prosecutor believes the crime alleged to be so serious (first degree murder, or multiple burglaries, etc.) then the juvenile may be charged in adult court and, if guilty, sent to the state penitentiary so long as the district judge grants permission for this procedure.

Delinquent Children

The Juvenile Court has jurisdiction over persons under the age of 18 who are alleged to be delinquent. It also has jurisdiction over persons over 18 who are alleged to have committed delinquent acts prior to becoming 18.

A delinquent child is one who has committed a delinquent act. A delinquent act is defined as an act punishable as a criminal offense. Thus, any child who is found to have committed a criminal act can be adjudicated as a delinquent.

The Juvenile Court has exclusive jurisdiction in all cases in which a minor under 13 is alleged to have committed a felony or a misdemeanor punishable by imprisonment for more than six months. As to minors over 13, as well as minors under 13 who are alleged to have committed misdemeanors punishable by imprisonment for six months or less, the Juvenile Court has concurrent jurisdiction with other courts.

Under the Juvenile Court Act, concurrent jurisdiction means that a minor charged with a criminal act or with violation of a municipal ordinance may be prosecuted either in the Juvenile Court, or in the appropriate District Court, County Court, Justice Court or Municipal Court. Except in cases of violation of a municipal ordinance, misdemeanors punishable by imprisonment for not more than six months, or other cases in which the minor has reached 17, charges must first be filed in the Juvenile Court as a petition alleging delinquency.

Where a delinquency petition has been filed in the Juvenile Court, the Juvenile Court may transfer the matter to another court to permit the minor to be prosecuted under the criminal law. A motion to transfer the case from the Juvenile Court must be made, and a hearing held upon the motion. The motion to transfer may be made by the prosecution, by the court, or by the minor. The Juvenile Court may transfer the case if it finds that the nature of the offense, the character and previous record of the minor, or the inability of the Juvenile Court to rehabilitate the child justify the transfer.

There is also provision for a reverse transfer of cases from the District Court to the Juvenile Court, where criminal charges have been filed against a minor over 17, if it is found that the Juvenile Court is more suited to deal with the minor.

Children in Need of Supervision

The Juvenile Court has exclusive jurisdiction over persons under the age of 18 who are alleged to be in need of supervision. (Children in need of supervision are also known by the acronym "CHINS").

A child in need of supervision is "any child who is habitually truant, has run away from home or habitually disobeys reasonable and lawful demands of his parents, guardian, custodian or other proper authority, and it ungovernable and beyond control".

Neglected Children

A neglected child is one who has not been provided with proper care, maintenance, supervision education, or medical care. A child who has been the victim of mental or physical abuse is also a neglected child. The Juvenile Court has exclusive jurisdiction over neglected children.

Complaints

Complaints alleging that a child is delinquent, in need of supervision or neglected are to be referred to the prosecuting attorney. The prosecuting attorney determines whether it is in the best interests of the child or of the public that judicial action be taken.

Petition

Juvenile Court proceedings are initiated by the filing of a petition. The petition is captioned: "State of Wyoming, In the Interest of _______________, a Minor". The petition must set forth the facts, including the name, age and address of the child; the name and address of the child's parent or guardian; whether the child is being held in detention or shelter care; and the facts which bring the child within the jurisdiction of the Juvenile Court.

When a petition is filed, the Juvenile Court may issue an order to the child and the child's parents or guardian to appear in court, or may issue an order to take the child into immediate custody.

The petition must be served personally upon persons ordered to appear. If the child is over 14, service is made upon the child. If the child is under 14, service is made by delivering a copy to the child's parents, guardian or custodian. If the parents are not within the state, service may be made by personal service outside the state, or by certified mail.

If necessary, the Juvenile Court may issue a search warrant for a child, to permit a child to be taken into immediate custody.

Taking Child Into Custody Without Court Order

A child may be taken into custody without a warrant or court order by a law enforcement officer when:

a. the child commits a delinquent act in the presence of the officer;
b. when the officer has reasonable grounds to believe the child has committed an act which would be a felony if committed by an adult;
c. the officer has reasonable grounds to believe that the child has run away, or that the child is abandoned, lost, ill or endangered by his surroundings, and the child's protection requires taking the child into immediate custody;
d. the child's conduct or behavior seriously endangers himself or others, or the property of others, and immediate custody appears necessary.

Detention or Shelter Care

"Detention" means temporary care of a child in physically restrictive facilities. "Shelter care" means the temporary care of a child in facilities which are not physically restrictive.

A child taken into custody may be placed in detention or shelter care if it is necessary to protect the child, to protect other persons or their property, to prevent the child from leaving or being removed from the jurisdiction of the Juvenile Court, or to provide care for a child who has no parent, guardian, custodian or other responsible adult to care for him.

A child alleged to be neglected shall be placed in a foster home or other child care facility. If other facilities are not available, "a child alleged to be neglected may be housed, fed and protected at the county jail but not locked in a cell or otherwise detained and treated as a delinquent child".

A child alleged to be delinquent or in need of supervision shall, if necessary, be placed in a detention home or "facility for delinquent or unruly children". If separate child detention facilities are not available, the child may be placed in the county jail if the child is kept separate from adults detained in the jail.

When a child is taken into custody, the child's parents, guardian or custodian must be notified as soon as possible. In addition, when a child is taken into custody without a court order, the prosecuting attorney must be notified without delay. The prosecuting attorney must review the need for detention or shelter care, and may order the child released. A Juvenile Court petition must be filed promptly.

Custody Hearing

Where a child is taken into custody without the filing of a petition, a custody hearing must be held by the Juvenile Court as soon as reasonably possible, but in any event within 72 hours. The purpose of the hearing is to determine whether the child should continue to be held in custody, or should be released to his parents, guardian or custodian.

At the hearing, the Juvenile Court will advise the child and his parents of their rights, including the right to counsel, the child's right to remain silent in delinquency cases, the right to confront and cross-examine witnesses and to present witnesses, the right to a jury trial, and the right to appeal.

Physical and Mental Examinations

After a petition has been filed, the Juvenile Court may order that the child be examined physically or mentally by a qualified physician or other health professional. The examination may be on an outpatient basis, or the child may be committed to a suitable facility for the examination. If an examination reveals that a child alleged to be delinquent or in need of supervision is incompetent to participate in court proceedings, the Juvenile Court may commit the child to the Wyoming State Hospital.

The Juvenile Court may authorize emergency medical examination or treatment of a child if the child is suffering from a condition which requires prompt examination or treatment, or examination is necessary to preserve evidence of neglect or a criminal offense against the child.

Conduct of Hearings

The general public are excluded from all Juvenile Court hearings. Only the parties, their counsel, jurors, witnesses, and other persons permitted by the court may be present.

Either a party to a juvenile proceeding or the prosecuting attorney may demand trial by jury. The jury decides questions or fact raised by the petition. If no jury is demanded, the judge of the Juvenile Court decides questions of fact.

At an adjudicatory hearing to determine the truth of the allegations of the Juvenile Court petition, allegations of delinquency or need of supervision must be proved beyond a reasonable doubt. Allegations of neglect must be proved by a preponderance of the evidence.

RIGHTS OF CHILDREN

Right to Counsel

A party to a Juvenile Court proceeding has a right to representation by counsel at every stage of the proceeding, including appeal. Parties may employ counsel of their choice. If parties are unable to obtain counsel, the court shall appoint counsel for them. If the parents of a child are able to afford counsel for the child but are not willing to do so, the court may appoint counsel and assess the costs against the parents.

Right to Notice of Charges

A party to a Juvenile Court proceedings has the right to a copy of the petition and all other charges made against him.

Right to Trial by Jury

A party against whom a petition has been filed, or the prosecuting attorney, may demand trial by jury. If no demand for jury trial is made within ten days after the initial appearance, trial by jury is waived.

Right to Presence of Parent, Guardian or Custodian at Hearing

The court must act to insure that the child's parents, guardian or custodian are present at any hearing. If the child has no parent, guardian or custodian to appear, or if the child interests are adverse to those of the parent, guardian or custodian, the court may appoint a guardian ad litem for the child. The guardian ad litem is an adult, often an attorney, who is able to counsel and advise the child in the court proceedings.

Right to Confront and Cross-Examine Witnesses

A party to a Juvenile Court proceeding has the right to confront and cross-examine witnesses who are presented against him.

Right to Introduce Evidence, Call Witnesses, and be Heard in his own Behalf

A party to a Juvenile Court proceeding has the right to introduce evidence and call witnesses in his own behalf. There is a right to the issuance of subpoenas to compel witnesses to attend. Parties also have the right to be heard in their own behalf, as by presenting argument to the court.

Right to Remain Silent

A child alleged to be delinquent has the right to remain silent, and cannot be compelled to be a witness against himself or to incriminate himself. Other parties to Juvenile Court proceedings may assert their rights against self-incrimination in appropriate instances.

Right to Appeal

The parties to a Juvenile Court proceeding have the right to appeal any judgment of the court to the Wyoming Supreme Court.

Right that Records Remain Confidential

A party to a Juvenile Court proceeding has the right that all court records and proceedings remain confidential, and shall not be disclosed to members of the public. Law enforcement records of children shall be kept separate from records relating to adults. The court may release to a victim a report of the final disposition in the proceeding.

Fingerprinting and Photographing

A child may not be finger printed or photographed by a law enforcement officer except in cases where the child is charged with a felony, or charged in Juvenile Court in a delinquency petition with acts which would constitute a felony.

Initial Appearance

At their initial appearance in the Juvenile Court, the child and his parents, guardian or custodian shall be advised of their rights under the law. In addition, they shall be advised of the allegations in the Juvenile Court petition, and given the opportunity to admit or deny the allegations.

If the allegations of the petition are denied, the court may, with the consent of the parties immediately hold an evidentiary hearing on the petition, or may set an evidentiary hearing at any time within 60 days.

Predisposition Study and Report

When a Juvenile Court petition is filed, a predisposition study and report are ordered by the court. The study and report include information about the child's history and family, the child's school performance, and other matters relevant to a proper disposition of the case. The predisposition study and report are not made available to the court prior to hearing and adjudication of the petition.

Consent Decree

At any time after a petition is filed alleging delinquency or need of supervision, the Juvenile Court may issue a consent decree with the consent of the district attorney and the child. A consent decree sets aside other proceedings and places the child under supervision of the court under agreed upon terms and conditions.

A consent decree may not be in force for longer than six months. If the child fulfills the terms and conditions of the consent decree, the proceedings against the child shall be dismissed. If the child fails to fulfill the terms and conditions, or if a new petition is filed against the child during the period of the consent decree, the original proceedings may be reinstated.

Disposition

When a child is determined delinquent, in need of supervision or neglected, either by admission of the parties or after a hearing, the court must place "the child in the least restrictive environment consistent with what is best suited to the protection of the public safety and interest, the public interest of preserving families, the physical, mental and moral welfare of the child and in accord with the actual facilities presently available to the court when the decree is entered."

If a child is found to be neglected, the court may permit the child to remain with his parents under terms and conditions as ordered by the court, or under protective supervision of the court. The court may also transfer legal custody to another person or agency.

If a child is found to be in need of supervision, the court shall place the child under protective supervision and may order any further disposition permitted for a neglected child, may commit the child to a segregated facility in jail for not to exceed 10 days, and may commit the child to the Wyoming youth treatment center for an indefinite term.

If a child is found delinquent, in addition to making any disposition authorized for a neglected child or child in need of supervision, the court may place the child under probation, commit the child to the Wyoming boys' school or Wyoming girls' school, or commit the child to a hospital for 90 days for treatment of substance abuse.

As a part of a dispositional order, the court may order restitution for damage or loss caused by the child, impose a fine upon the child, require the child to participate in a work program, cause the child to be examined or treated by a physician, restrict the child's driving privileges, impose other restrains upon the child, and require the child and the child's parents to undergo evaluation and treatment.

A dispositional order for a neglected child or child in need of supervision shall remain in force for not more than 18 months. Otherwise, a dispositional order of the Juvenile Court remains in force until terminated by the court, in neglect cases when the child reaches the age of 18 or graduates from high school, and in delinquency and need of supervision cases when the child reaches the age of 21.

A child who is committed to an institution may be given temporary release in the form of "home leave," subject to terms and conditions set by the institution. A child on home leave is subject to supervision by a probation officer.

Probation Revocation

If a child on probation from an adjudication of delinquency commits a new delinquent act or violates the conditions of probation, a petition to revoke probation may be filed by the prosecuting attorney. A hearing on the petition must be held. If it is found that probation has been violated, the court may modify the conditions of probation, extend the period of probation, or make any other disposition, including institutionalization of the child.

Release of Child from Institution

A child committed by the Juvenile Court to the Wyoming boys' school, the Wyoming girls' school, the Wyoming youth treatment center or the Wyoming state hospital may be released from the institution by the agency in charge of the institution. Any other terms of the Juvenile Court order remain in effect.

Payment for Support and Treatment of Child

If the Juvenile Court takes legal custody of a child from the child's parents and places custody in another person, agency or organization, the court may order that the child's parents pay the costs of support and treatment for the child.

Expungement of Juvenile Court Records

When a person who has been under the jurisdiction of the Juvenile Court as a delinquent child, child in need of supervision or neglected child, reaches the age of 18, a petition may be filed in the Juvenile Court for expungement of the court record. The court may order expungement of the record if it finds that the person has not been convicted of a felony and no felony charges are pending against the person. If expungement is ordered, "the proceedings in the petitioner's case are deemed never to have occurred and the petitioner may reply accordingly upon any inquiry in the matter."

IV. CITIZENSHIP RIGHTS & RESPONSIBILITIES

As citizens of the United States and of Wyoming, we have certain rights and we have certain responsibilities. Voting is both a right and a responsibility. So is jury duty. Taxes are a responsibility, but the payment of taxes ensures certain rights, such as the creation and maintenance of roads and highways, and protection by police, fire and health departments.

JURY DUTY

Our System of justice involves citizen participation. Wyoming and Federal laws concerning jury duty are very similar. Both entities consider jury duty an obligation and an opportunity. There are two kinds of juries, a Grand Jury, and a Petit Jury. The Grand Jury is "empaneled" for 18 months and considers evidence brought to it by the prosecuting attorney. It decides whether or not someone should be charged with a crime. The Petit Jury (Small Jury) is "empaneled" for six months, and actually decides a person's fate after they have been charged with a crime. A Petit Jury also sits in civil cases. Criminal cases must be tried before juries of twelve persons. A civil case may be tried before only six people. In most cases an alternate, or backup, juror is selected in order to avoid a "mistrial" if one juror cannot, for any reason, continue to hear the evidence.

In Wyoming, jurors may be selected to sit on cases in Federal Court, District Court, County Court, and Municipal Court. If Wyoming law says a person found guilty of a crime may be punished by imprisonment for six months, that person is entitled by law to a jury. In civil cases, the parties must pay a sum of money for the privilege of having a jury hear and decide their case.

Jurors are selected from voter registration lists. If more jurors are needed than there are people who voted or registered to vote, names can be drawn from other sources. In our Federal Court, the American National Bank draws names of prospective jurors and forwards them to the Clerk of Court, who then sends out juror questionnaires. The completed questionnaires form the basis for selection of the jury panel, who are then summoned to the Federal Building for jury duty.

In state courts, including district, county, and municipal, the Secretary of State sends the Clerk of the District Court 1,000 names. Names from all over Laramie County are used for district and county court cases, however, the municipal courts limit their selection of names to only those residing within city limits. Jurors for state courts also complete jury questionnaires, and are also summoned to jury duty.

A person who fails to return a completed jury questionnaire, returns a jury questionnaire with false answers, or who fails to appear in court when summoned as a juror, may be punished for contempt of court. This punishment could involve the payment of a fine, or spending some time in jail, or both.

Those who may not sit (are disqualified) as Federal jurors are:

1. Persons who have been convicted of a crime providing for punishment of more than a year's imprisonment and have not had their civil rights restored;
2. Persons who are unable to read, write, or speak the English language; or
3. Persons who are incapable by reason of mental or physical infirmities of serving as a juror.

Some persons are automatically exempt from *Federal* jury duty. These include:

1. Active duty members of the Armed Forces;
2. Members of police and fire departments;
3. Elected or appointed public officials currently serving terms in office.

A person may be excused from Federal jury duty upon application to the judge if he or she is a volunteer firefighter, or member of a rescue squad or ambulance crew. A judge may also excuse someone they feel will suffer undue hardship or extreme inconvenience if they are required to sit on a jury. This is defined as a great distance in miles or travel time from the person's place of residence to the court, grave illness in the person's family or other emergency which outweighs in immediacy and urgency the obligation to serve as a juror. If the case is expected to last more than 30 days, economic hardship to the person or his or her employer may also be considered.

Wyoming statutes provide almost the same reasons for "disqualification" and excusal of a person from jury duty. However, a person summoned for state, county, or municipal jury duty can also be excused if he or she will suffer material injury or destruction to his or her property, if the care of their own young children requires their absence, or if they are older than 72.

Judges in all courts can also excuse those who have served on a jury from serving for the remainder of that jury term or from serving during the following jury term.

An employee cannot be fired from his job because he or she is serving as a juror. If someone is fired because of this, they may sue and recover certain things from the employer, including reinstatement in their job, and money for their loss. An employer is not required to pay an employee who is serving as a juror.

Jurors who are selected for jury duty are generally paid something for their trouble, a daily fee and some costs (i.e. for meals, mileage, and/or lodging). Presently Wyoming jurors are paid $30 per day.

When prospective jurors appear in the courtroom, several names are called and those people sit in the jury box and answer questions posed to them either by the Court or by the attorneys involved in the case. When all these questions have been answered, the attorneys "challenge" jurors, that is, they tell the judge which juror they do not wish to hear their case. Only a certain number of "challenges" are allowed each side of the case. There is nothing personal about these "challenges; [illegible] merely reflect the attorneys' "best guesses" as to which jurors would be best for their client.

VOTING AND THE ELECTION PROCESS

The Secretary of State supervises political divisions and subdivisions (such as county and municipal entities), political parties, candidates, and committees, following the laws set down by the Legislature in the Election Code. Each County Clerk, under this direction, supervises the elections.

Every citizen of the State of Wyoming who is 18 or older on election day is eligible to vote. The Wyoming citizens who are not allowed to vote are: (1) those who have been found by a judge to be mentally incompetent, or (2) those who have been convicted of a felony and whose rights have not been restored. A person does not have to read or write to be able to vote. Voters may cast their ballot in person during specified hours on election day, or by requesting and returning an "absentee ballot".

If a registered voter does not vote in any general election, his or her registration is cancelled. Thereafter, in order to vote in any election covered by the Election Code (which is most elections), that person must re-register.

Employers are required to allow their employees one hour on election day to vote. Employers cannot require employees to use their lunch break to vote. While employers may ask the County Clerk to verify their employee actually cast a ballot, and may refuse to pay them for the hour if the employee did not appear at the polling place, they may not refuse the employee that extra hour off, even if an employee is only a part-time employee. The hour used by the employee is an hour convenient for the employer.

General elections are held every two years on the Tuesday next following the first Monday in November. These elections are always held in even numbered years. Our national representative and our state representatives must run for office every general election.

Counting from 1974, every four years citizens of Wyoming elect a governor and a secretary of state, a state treasurer, auditor, and superintendent of public instruction. The citizens of each county also elect their clerks, county and prosecuting attorneys, commissioners, coroner, district attorneys, sheriffs, clerk of their district court, and justice(s) of the peace.

Counting from 1976, every four years voters of the State of Wyoming vote for President and Vice President of the United States. At the same time, they also vote for the presidential electors. The presidential electors are nominated by a political party nominating candidates for President and Vice President.

Every six years, from 1976, one of our United States senators is elected. The second U.S. senator is elected every six years counting from the year 1978.

Judges are appointed by the Governor from names submitted to him by a panel charged with selection of those names. Thereafter, judges stand for retention, that is, their names are placed on the ballot and the voters determine whether they wish the judges to continue serving. Every four years the voters look at county court judges. Every six years they look at district court judges, and every eight years at supreme court justices. So there is no chance we would be left without judges after an election, not all judges' names are submitted to the voters in the same year.

Wyoming voters can also consider amendments to the Wyoming Constitution which are proposed by two-thirds of the Wyoming legislature. To pass, the majority of the voters voting must approve the proposed amendment.

With certain limitations, the people may propose and enact laws using a process called initiative. They may not, however, use this process to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or their rules, enact local or special legislation, enact laws which the Constitution prohibits the Legislature from enacting, or enact a law defeated within five years of an election in which it was submitted to the voters by the same process.

The people may approve or reject acts of the Legislature using a process called referendum. This may not be done, however, to acts addressing dedications of revenue, appropriations, local or special legislation or to laws necessary for the immediate preservation of public peace, health or safety.

To get a proposal for an initiative or referendum on the ballot, an application must be filed with the Secretary of State, accompanied by $100.00. If the petition is properly filed, the deposit will be refunded. Three people must be designated as sponsors, and they must be prepared to represent all other sponsors relating to the initiative or referendum. The application must contain the signatures and addresses of not less than one hundred qualified registered voters. The number of signatures on the petition is determined by the Wyoming Constitution.

Only sponsors of a petition can ask others to sign that petition. They also have several other important responsibilities, and must verify that to the best of their knowledge each person signing the petition is who he or she represents himself or herself to be.

If someone intentionally signs more than one petition, or signs names other than his or her own, hoping that will help the proposal get on the ballot, he or she may be found guilty of a crime. That person could then be ordered to pay $1,000.00, to spend time in prison for not more than one year, or both.

Before the petition is filed, a person may remove his or her name by giving written notice to the Secretary of State of a desire to do so.

The Election Code covers many more facets of the voting process, even seemingly minor detail, such as how close signs or pins may be to any polling place. It also details the requirements for disclosure on printed and voice campaign advertising, when the political parties shall meet, and when they shall elect their party officers. When the Election Code doesn't answer a question, the Secretary of State may turn to the Attorney General who will research the question and provide an answer.

TAXES

All property within the State of Wyoming may be taxed unless it is exempted from taxation by the Wyoming or United States Constitutions, or by statute. Thus far, the State does not tax income, though income is a form of property which it is allowed to tax. And, by law in Wyoming, the State is the only governmental entity besides the Federal government which may tax income.

Taxes are levied in terms of "mills". A mill is a tenth of one cent (.1 of one cent). When you hear the term "four mills", for instance, it means the taxing authority is collecting a tax of .4 from each penny tax paid.

The tax with which we are most familiar is the sales tax, which we pay each time we purchase something. Tax on real estate is also a familiar form of taxation, as is the tax paid each year to get license plates updated so we can drive legally that year. Persons in business for themselves are also required to pay a tax each year for the property they use in their business.

Generally, counties are responsible for collecting taxes and remitting, or paying, them to the State. The person responsible for this is the county treasurer. Certain taxes, such as sales tax, are paid directly to the State. As is always the case when dealing with money, there are certain records which must be kept and reports which must accompany the money which is paid in as tax. The importance of these records and reports cannot be overemphasized. For instance, if a person in business uses a desk, he must claim the value of that desk yearly to the county assessor. If he does not claim a certain value, the county assessor will increase the value of that desk each year. If the person does not protest the valuation within a certain time, they must pay the assessed tax or suffer the consequences.

The county commissioners of each county appoint a county assessor. If the county is divided by the county commissioners into more than one assessment district, the county assessor appoints a deputy to work in each district. The county assessor or deputy is responsible for determining the fair market value of property in his or her assessment district or county.

Wyoming statutes provides exemptions for certain classes of persons or entities, which means these persons or entities are relieved of the obligation of paying certain taxes or a certain amount of taxes. The statutes also provide certain persons or entities, under certain circumstances, may receive a tax credit, which reduces the amount of taxes they are required to pay. Still other persons are, after proper application, given an actual tax refund. The laws set out how these persons or entities are recognized, or how they qualify, how they obtain the tax relief to which they are entitled, and how much tax relief they receive.

If someone feels they do not owe a certain tax, or the amount which they are told they must pay, they still must pay that tax, but they can appeal their payment. If taxes are not paid, the amount due accumulates interest. At some point in time the county will seize and sell property of a person who owes taxes. After that is done the person has the right to redeem his property by paying the amount owed for taxes and interest, plus any other charges incurred by the taxing authority for its collection efforts.

In Wyoming the Legislature meets every two years specifically to discuss budget concerns. The Legislature actually discusses financial matters during every legislative session. They decide which State entities will get money, and how much. They decide what money will be used to assist those who need financial assistance in our state. And they also decide what taxes will be increased or changed in some way.

Somewhere in the world at this moment someone is paying for freedom and its privileges with his or her life. In the United States we pay for the benefits of freedom with money.

DISCRIMINATION

In addition to roads, schools, police protection, and other benefits, we are entitled, because we are citizens of the United States, to equality with others. Our state and federal constitutions and statutes state clearly we cannot be discriminated against because we are a different color than the majority of the citizens of the United States, because we worship, or don't worship, differently, because we hold different beliefs, because we are older, or younger, or because we have some sort of physical or mental challenge.

This does not mean, however, there cannot be some rational reason for choosing one person over another, such as educational degrees required for certain jobs.

Determining whether someone has suffered discrimination in any given situation is not always easy.

As an example, take a situation where someone who is not white is shoved aside by a white doctor while attempting to find out if their loved one is going to be all right. They claim they have suffered discrimination because of their color. If witnesses say this doctor makes a practice of behaving badly towards non-white individuals, and treats white individuals well, discrimination may have occurred. However, if witnesses say the person shoved aside was standing between the doctor and the patient who was bleeding, and it wouldn't have mattered to the doctor at that moment if the person who was shoved was the President, or was pink with green spots, it is more unlikely any discrimination occurred.

If you feel you have suffered some sort of discrimination, talk to someone about it. If you feel it is the fault of one person, go to that person's supervisor and calmly explain your complaint. Counselors at school, elected officials, bar associations, and organizational advocates are persons who can help you get started. Don't stop with one answer, or if someone says they don't know. Ask them if they could refer you to someone who might be able to answer your question, then ask that person or entity. Ask the Bar Association to refer you to attorneys who handle discrimination questions.

Wyoming has a chapter of the American Civil Liberties Union (ACLU) located in Laramie (P.O. Box A, Laramie, Wyoming, (307) 745-4515) and a Committee located in Cheyenne (P.O. Box 313, Cheyenne, Wyoming 83003-0313, (307) 632-2889).

Even though you may be upset about what has happened to you, and even though it may be terribly wrong, try to remain calm and rational and explain your complaint with the same courtesy you would like to receive from someone coming to you. Think of how you would feel if someone were demanding your help and also demanding you give up your wages to help them. Remember they are attempting to help at no cost to you, and without receiving any pay for their efforts. Be patient and considerate of their efforts and do not expect miracles from them.

Sometimes even if discrimination has occurred, there is nothing that can be done about it. If the person suffering the discrimination has suffered no actual damage, then it may not be feasible to make a case of what happened.

For example, take the situation of a woman working as a cocktail waitress at a bar. Three times the bar manager promises her she will have the next bartender position which opens up, and three times he hires a male to fill that position. The manage tells her men can handle the job of bartender better than women. The woman quits and goes to work as a bartender at another bar. She is earning more there and was not out of work for more than a day or two.

Did this person suffer discrimination because of her sex: Obviously.

Can she sue? Yes, definitely.

What will she recover? Well, what has she lost? Nothing beyond one or two day's wages as a bartender at the establishment where she suffered the discrimination, several hundred dollars at most.

What would it cost her to sue? It would cost her several thousand dollars in attorneys' fees and costs.

Don't attorneys take cases and just take a portion of what they recover? Yes, if the amount they can recover may reasonably pay for the costs of operating their business, that is, what they have to pay for rent, phone, secretarial services, etc. If a case will require several hundred hours of their time and is likely to yield only a few hundred dollars, they have to charge by the hour to keep their business open.

Doesn't the ACLU take cases like this for free? No. The ACLU evaluates cases just like any other attorney would evaluate a case. It looks at the ramifications of the decision. It compares the seriousness of each case with the seriousness of other cases it is asked to consider. In other words, is the discrimination suffered by this woman being practiced by other bars in her community? Does it affect many women? Obviously not, given her present job.

Well, isn't preventing discrimination more important than the cost? After all, it is the principle of the thing, isn't it? To answer that, ask yourself if you would be willing to pay out, and actually have the funds to pay out, several thousand dollars for each case of discrimination brought to you. If you say, yes, you would, then you need to hire an attorney and pay them.

V. CIVIL LAW

GENERALLY

In Wyoming just about anything which does not involve a crime or the criminal law is governed by civil law. The civil law addresses concerns which arise in relationships between one person and another, between a person and a company, between one company and another, and between all of these people and government.

Sometimes we intend to enter into a relationship because we need a job (employment law) or because we want to buy or do something (contract law). One special intentional relationship occurs when we buy land or a house (property law). Sometimes we enter into a relationship as a result of an accident and someone is hurt (tort law). Jobs, contracts, property and torts are only a few of the relationships governed by civil law.

The civil law is found in statutes and opinions of courts. Statutes are the laws passed by the legislature. When the Wyoming legislature meets in Cheyenne, the legislators vote on bills. If a bill is passed in both the House of Representatives and the Senate, and the Governor does not veto it, the bill will become a law. The law will then be written as a statute (codified) and placed along with all other statutes in books called the Wyoming Statutes.

The federal government makes laws in much the same way. First a bill must make it through the United States Congress, meaning it must be passed by both the House of Representatives and the Senate. Then the President must not veto the bill. If the bill becomes a law it will be written as a statute books called the United States Code.

Civil law is also written in court opinions. Court opinions are written when a judge makes a decision in a law suit. The opinions of the Wyoming Supreme Court, and most other state and federal courts, are collected in books call Reporters. These books as well as the statutes may be found in your local law library.

SELECTED AREAS OF CIVIL LAW

EMPLOYMENT

The first area mentioned above in civil law was employment law. When we need a job and someone is willing to hire us, that job is governed by the civil law known as employment law or labor law. The employment law helps us understand our rights and duties in the work place, what employers can expect and what workers can expect out of the employment relationship.

Employment law addresses the rights of a person when they are hired or fired, when they are paid, how much they must be paid, what kinds of work may be done, and whether the job requires special training. When an employee is injured the government helps pay bills and living expenses with money from the Worker's Compensation fund. This fund was created by the legislature by statute, and is an example of a statutory civil law. Unemployment, strikes, retirement, and many other job related issues are matters addressed by civil law.

CONTRACTS

Contracts are part of the civil law. A contract begins when there is a voluntary agreement between people. At the most basic level an offer and an acceptance make up an agreement; but before the agreement becomes enforceable in court there must be consideration. As an example of an offer and acceptance, assume Sam wants to sell his green car and Bill wants to buy it. Sam would say, "Bill, do you want to buy my old green car for $50?" This is the offer, because Sam has "offered" to sell his car. Bill would naturally respond, "Sure Sam, I will buy your old green car for $50?" Bill has accepted.

Sam and Bill have an agreement which will only be enforced by a court if there is consideration. Consideration means someone must do something the law does not require them to do, or not do something they have a legal right to do, but consideration cannot be against the law.

One way to look at consideration is as a payment. It does not need to be full payment, or even money, but it must have some value. For example, Bill could pay Sam $10. Once the payment is made the courts will enforce the contract. Or, Bill could wash Sam's gym cloths for a month as a "down payment" for the car. There is no question that washing Sam's gym cloths was something the law does not require Bill to do. Not everything is consideration. For example, a person cannot do something illegal for consideration. It would not be consideration if Bill robbed someone for Sam to "cement the car deal."

Contracts may be formal or informal, written or spoken. Spoken contracts are called oral contracts. Formal written contracts are often found in business, where one corporation engages in a transaction with another or where people plan to work as partners. A common formal written contract is made when someone rents an apartment or a house. This rental agreement is often called a lease. Loans are contracts which allow someone to borrow money. Informal contracts are rather common events. One informal oral contract is made every time a patron orders food in a restaurant. The patron agrees to pay money and the restaurant agrees to provide food. Even marriage is a contract.

In Wyoming there is a basic right for people to freely enter into contracts. One limitation on the right to contract is that a person have the capacity to contract. A person must have the ability to understand the nature and effect of the act of contracting. Three common reasons a person lacks the capacity to contract are infancy, insanity, and intoxication. An infant is a person who because of their youth will be allowed to disaffirm a contract even though they do not make the other party whole, or cannot return everything they have received. An insane person is one who is mentally infirm, and will also be able to disaffirm a contract. Intoxicated persons also lack the capacity to contract, but are required to make the other party whole.

PROPERTY LAW

Property law is the legal relationship among people in regard to a res or even an intangible subject such as an idea or invention. A res (rhymes with fez) is a thing - land, cars, stocks, etc. Property is protected by the civil law, one way is by documents which show ownership: for land there are deeds, for cars there are titles, for stocks there are stock certificates, for cows there are bills of sale, for groceries there are receipts, for ideas there are copyrights, and for inventions there are patents. If you think about it, for every thing you can name you can probably think of a document or other paper which shows who owns it.

There are two broad categories of property law: the law of real property and the law of personal property. Real property means land and those things attached to land like houses. Personal property means, generally, anything that can be moved such as chairs, carts, desks, and books. Both real and personal property may be divided into smaller and smaller parts as well as divided in terms of time. Consider this book, you could own the entire book, or you could sell each page to a different person, and the owner of each page could then sell different parts of the page.

The best example of subdivided ownership is land. Land can be subdivided horizontally, vertically and in time. It can be sold horizontally by selling lots. It can be subdivided vertically by selling the mineral rights, the surface rights, the grazing rights, the water rights, the rights to oil and gas, the rights to mine metals, or the rights to quarry gravel. It can be subdivided in time in by leases, life estates or future rights to ownership. Consider the following examples: I could lease my land for 1995 to Bill, for 1996 to Sam and for 1997 to Patty. I could sell Patty a life estate, so she could own the land - live on it and treat it as her on - for as long as she lived. then, when Patty dies, I would own it would return to me. I could sell Bill the future right to buy by land on January 1, 1997.

There are many other rights in land not discussed, rights like the right to hunt on land, to fish on land, to drive a car upon land, to bury pipe in land. There are even cases where people have purchased the right to sunlight and air, but these often occur in large cities.

Property rights are often thought of as a bundle of sticks. Think of this book as the property in question. Basically, there are six rights you could have in this book (think of it as six things you could do to it). Those rights are: the right to possess, the right to exclude others, the right to dispose, the right to use, the right to enjoy the fruits and profits, and the right to destroy.

There are four basic ways to hold rights in property. The first way is for a person to own property alone, as the sole owner. The other three ways to own land arise when more than one person own the same property. When a husband and wife buy property together and own it in both of their names "as husband and wife, with rights of survivorship" they have a tenancy by the entirety. When two or more people buy property together and own it in there names with "rights of survivorship" they have a joint tenancy. the "rights of survivorship" language means that if one of the owners of the property dies the other owners automatically acquire his property rights. The forth and final way to hold property is as a tenant in common. Tenants in common are created when two or more people buy property together and own in their names. Often the ownership document will say "as tenants in common and not as joint tenants."

TORTS

A tort is a wrong, often involving personal injury, done by one person to another. There are many kinds of torts, too many to list. There are intentional torts, strict liability torts (like when you own a lion and it escapes, if it injures someone you are responsible), and negligence torts. Torts cover many topics like: assault, battery, intentional infliction of emotional distress, libel, slander, medical malpractice, slip-and-fall, and wrongful death to name a few. Negligence is one of the most traditional areas for discussion in tort law, if you go to law school it is likely to be the first thing you learn.

Negligence occurs when a person has a duty which they breach that causes damage. The four elements of a negligence tort are (1) duty, (2) breach of duty, (3) causation, and (4) damage. Duties are those things the law recognizes a person should do or not do. For example, Bill should drive safely and should not yell fire in a crowded theater. A breach of duty means the person disregards the duty and acts otherwise. Bill does not drive safely and yells fire in the crowded theater. Causation, often called proximate cause, means there is a connection between the breach of duty and the harm to another. The cause may be direct, such as Bill, driving in an unsafe manner hits pedestrian Patty and breaks her leg. The cause may be a little more remote if Bill yells fire in the crowded theater causing the crowd to stand up and run toward the door and Sam is stomped on when he falls. Bill did not stomp on Sam, but proximately caused Sam to be injured. Finally, there must be damage. Damages are often evidenced by doctor bills, physical therapy bills, psychological counseling bills, lost wages, and items purchased as a result of the harm like medicines, crutches and bandages. Other damages, like pain and suffering, are not evidenced by bills but are compensable under the law. Bill may have to pay Patty for her pain and suffering resulting from her broken leg.

REMEDIES

In the criminal, law if a person is taken to court they may end up in jail or with fines. In the civil, law the person taken to court may need to pay money or act according to the court's orders. Damages are often compensated in money, and over time "money" and "damages" have come to mean the same thing in civil law. It is called an injunction if the court requires a person to do or not to do something, to act according to a court order.

There are three kinds of injunctions. The shortest injunction is called a temporary restraining order. A temporary restraining order is often made by the court when there is an emergency, when there is not enough time to look into the underlying problem without there being harm done to one of the parties. A temporary injunction is entered when the court has time to carefully review a situation and sets a period of time for a person to either do or not to do something. Permanent injunctions are court orders which last forever, they are permanent.

Here are some examples: If Bill and Sam set up a boxing match for tonight, and Patty was sure Bill would get clobbered, Patty could go to the court and request a temporary restraining order to prevent the match for a short time. If Bill and Sam planned to skip school for their senior year without good reason, the court might enter an order compelling them to go to school for the senior year. This would be a temporary injunction because they do not need to go to school forever, only one year. If Bill's factory spilled pollution onto Sam's ranch, a court might enter an order that Bill's factory never again pollute Sam's ranch. This would be a permanent injunction.

Whenever anyone does not comply with an injunction, they may be held in contempt of court. This could result a set jail term, called criminal contempt. Or, the person may need to go to jail until they comply with the court order, called civil contempt of court. In civil contempt of court, the person "holds the key to his own jail cell" because he may get out simply by obeying the court's order.

Sometimes both civil and criminal law apply to an act, particularly when there is a tort. Battery is a good example. If Bill and Sam get into a fight, the government's prosecutor may charge them both with the crime of battery, and they may sue one another for their injuries for the tort of battery. There would be two separate trials. The criminal trial could result in jail for the culpable person, and the civil trial could result in the wrongful person having to pay money damages. Neither trial would have much bearing on the outcome of the other except the fact a person is found guilty in a criminal case could be used against him in the civil case.

VI. EMPLOYMENT LAW IN WYOMING

While you may have often believed that getting a job in Wyoming is a simple matter, you should be aware that there are certain legal aspects about employment that can affect your day to day life. The most commonly discussed matter of Wyoming law concerning employment is the employment at will doctrine. Employment at will means that an employer can discharge an employee for any reason, or for not reason at all, without legal recourse. This means that if you were to get a job somewhere, your employer could terminate your employment at his option whether you had given him a reason to fire you or not. Not all states deal with employment relationships in this way but Wyoming does. The employment at will doctrine is a product of the concept that Wyoming employees do not have any right or expectation to continued employment.

There are some exceptions to the employment at will doctrine. Most of these exceptions are designed to protect employees from having their employers unfairly abuse the employment at will doctrine.

The most common method of giving an employee a right to work at a job is by entering into an employment contract with the employee. These contracts can be verbal or in writing and often call for an employee to work for a specified period of time. They can also provide that the employee can only be discharged for a good reason or that an employee can be subjected to progressive steps of discipline prior to termination should the employee fail to do his job properly. If an employer enters into one of these contracts with an employee, the employer gives that employee a right to continued employment and the security of knowing that he cannot be fired at any time without cause as would otherwise be the case under Wyoming law.

Sometimes, even if there is no express written contract between an employer and an employee, conduct of the employer can give rise to an implied contract. Wyoming courts have held that employers, by taking certain actions, or by distributing certain documents to their employees, can lead employees to believe that they cannot be fired without cause. If an employer does one of these things, a court can protect the employee, holding that an employee has to reasonably rely on statements or written information given to him by an employer indicating that he cannot be fired except for good reason.

Wyoming courts have also fashioned several other exceptions to the employment at will doctrine. Specifically, Wyoming court s recognize that in certain circumstances public policy and basic equity and fairness can allow the court to protect an employee from an unfair firing under certain circumstances. For example, the Wyoming Supreme Court has held that an employee cannot be fired under the employment at will doctrine simply because he exercises his right to receive worker's compensation benefits.

Regardless of whether an employer and employee relationship is governed by the at will doctrine, or whether there has been an express or implied contract to govern their relationship, employers must also be careful not to discriminate against their employees. State and federal law provides numerous protections to employees against employment discrimination. Title 7 of the Civil Rights Ace, 42 U.S.C. §2000(e) prohibits discrimination in compensation, terms, conditions, or privileges of employment because of race, color, religion, sex or national origin. The Wyoming Fair Employment Practices Act of 1965, prohibits discriminatory or unfair employment practices in terms, conditions and privileges of employment against a qualified handicapped person or because of age, sec, race, creed, color, national origin or ancestry.

Employers must also exercise extreme caution to make sure they are not ever taking disciplinary action against an employee because that person exercised a constitutional right to free speech, freedom of assembly, freedom of religion, etc.

If either an employer or an employee ever have a question about their relationship, the best way to resolve it is if both parties keep good written records of what has happened. When you work for someone you should ask for records which might include the following:

a. A detailed written job description
b. An employee handbook which you might have reviewed by your attorney
c. A completed job application form.
d. Any personnel files or information which is accumulated on you while you work for someone
e. Any document showing how land why you were discharged if your employment is ever terminated

VII. AUTOMOBILE RELATED LAW

Probably one of the most important points in a teenager's life is when he or she can legally drive a car. It is sign of "coming of age" and a real step towards personal freedom. You are no longer bound by the ties to parents, brothers or sisters, or other fiends to get you to all those places you have to go. But!!! Driving means BIG responsibility! Not only must you learn to drive a motor vehicle, but you must know how to do it safely and lawfully.

Learning to safely operate the motor vehicle and having knowledge of the traffic and automobile laws will make you a better drive. Safe driving comes from practice and good instruction, which you can receive through a driving education course. You can have a life-long enjoyable experience driving, if you know how to drive safely. If you don't drive safely or develop poor driving habits, it may cost you your life or the life of a friend or a loved one.

Knowing the law is an important step in becoming a safe driver. Because there are thousands of deaths and injuries each year from motor vehicle accidents, laws have been made to protect innocent persons and to effectively make our streets and highways a safer place to operate motor vehicles. The laws which affect all drivers are designed to discourage careless and reckless driving practices and to keep the incompetent and irresponsible drivers off the road. If a poor driving record is developed by a driver, because of his failure to follow the law or because of his driving habits, he will not only lose the privilege to drive, but it will cost him a great deal more money to obtain the mandatory automobile insurance.

There are a number of laws which you must become familiar with before you should even attempt to drive and certainly know if you are already driving. Wyoming's laws for driving an automobile or other motor vehicles range from the age requirements for licensing to traffic regulations to financial responsibilities with ownership and operations.

One of the best sources of information regarding the basic law in Wyoming is the "Official Driver's License Manual - Wyoming Rules of the Road." This is a publication available through the Wyoming Department of Revenue - Driver's License Offices. This handbook can provide you with the basic knowledge to pass the written portion of the driver's license test. It will also give you a good overview to the laws, without being to technical. You should consult the handbook to determine which license you are required to have for the motor vehicle that you want to drive.

Nearly all violations of the Wyoming traffic and automobile laws are treated as criminal acts. A violator can receive a jail sentence and can be fined a sum of money, or both, as punishment for their actions. But, the problems may not end there. Violators can be held to certain civil standards of care in the operations of their motor vehicle and can be sued for money damages in a civil court action for the property destruction, injuries or death they caused by their unlawful, careless, irresponsible or negligent driving habits.

Some important areas in the Wyoming driving and motor vehicle laws which you should become familiar with are:

DRIVER'S LICENSE AND TESTING

Wyoming law requires that you must have a valid driver's license, instruction permit or restricted license in order to legally drive on the streets or highways. You are only allowed to have one valid driver's license, which must be carried with you while you operate the motor vehicle. A drive's license for a certain class, such as one for automobiles is good for all types of cars and light trucks. If you want to drive commercial trucks, you are required to obtain a different license. Generally, you may apply for a driver's license for a car, light truck or motorcycle when you are 16 years old. You are required to pass a written, driving and vision test before the license is issued.

You may apply for an instruction permit when you are 15 years old. You must pass the written and vision portions of the driving test and when you drive, you must be accompanied by a person at least 18 years old, who has been licensed as a driver for at least one year, and who is fit to operate the car and can be seated by the driver. You may also apply for an instruction permit for a motorcycle when you are 15 years old, but you may not carry any passengers.

Under certain circumstances, a restricted license may be issued if you are at least 14 years old and can show "extreme inconvenience" under the certain requirements listed under the Wyoming statute. This is better known as the hardship license.

DRIVER'S RESPONSIBILITIES

Every driver of motor vehicle is required to obey the laws, as established by the state, in the operation, maintenance and use of the vehicle. As an example, Wyoming law now requires (with some minor exceptions) that the driver and front seat passengers in a vehicle must wear a seat belt. Also, children under the age of 3, or less than 40 pounds in weight, must be properly secured in a child safety restraint system - a child carrier or child car seat. It is the driver's responsibility to see that his passengers obey the law and the child is properly secured.

Driver's are expected to obey posted traffic control signs, such as posted speed limits, stop and yield signs, lane controls and turn and stop signals. A driver must stop their vehicle when approaching a school bus with the stop signal or flashing red lights activated. A driver must maintain control of their vehicle under changing road and weather conditions, which means that the driver must adjust speed downward from the posted speed limit for slippery roads, or for poor light and visibility, or heavy traffic conditions. A driver must know when to yield and grant the right away while driving, such as pulling near the edge of the road and yielding to emergency vehicles or giving pedestrians the right away in a marked cross walks. You must know the proper and lawful means to enter and exit an Interstate Highway.

Certain driving practices are not only dangerous, but are illegal. Some carry mandatory suspensions of driving privileges, such as reckless driving or speed contests - drag racing. Also driving to show off is illegal and can result in a ticket with a hefty fine or even jail. Things like "spinning donuts" or "spinning-out" or burning rubber" from intersections fall under this category. Other practices which are unlawful include clinging to a motor vehicle with a bicycle or hanging on the bumper. It's not cool and it will cost you.

Needless to say, teenagers are not allowed to drink or consume alcoholic beverages. Use of controlled substances, such as marijuana or LSD is illegal, too. The use of any drug or alcohol, which impairs your driving ability is a violation of Wyoming traffic laws. In Wyoming, the law states that a driver or person in actual physical control of a motor vehicle upon a public street or highway is deemed to have given consent to be tested for alcohol or controlled substances in their blood. The test can be a blood, breath or urine type test. This is called the Implied Consent Law. Failing to submit to a test will result in an automatic suspension of the driver's license. If a driver is convicted of driving under the influence of alcohol or drugs he can have his driver's license suspended and receive a jail sentence and a substantial fine. If a driver is convicted of driving under the influence, his insurance rates will increase tremendously. He may not be able to find an insurance company to carry him. Driving under the influence is a major factor in the deaths on the highways today. It is simply not smart and can cost you your life.

TRAFFIC ACCIDENTS AND FINANCIAL RESPONSIBILITY

If you are involved in a traffic accident, you have certain responsibilities which must be followed. You must contact the police if the accident results in death or injury or if the property damage is $500.00 or more. You must stop and stay at the scene or return to scene after calling the police, until the police have arrived and questioned everyone involved. You must fill out a report form for the Accident Records Section of Wyoming Transportation Department within ten days of the accident. If you are involved with an unattended vehicle, you must leave certain information with that unattended vehicle, such as your name, address, phone, date of accident, your driver's license number and the name of your insurance company. If you are in doubt about an accident, always contact a law enforcement agency for assistance.

Drivers in Wyoming are required, under Wyoming law to have liability insurance if they drive. Your are required to carry a card provided by the insurance company in the motor vehicle showing proof of insurance. Failure to obtain insurance and maintain proof of insurance is a violation of the law and can result in suspension of driver's license and driving privileges.

If you are involved in an accident you are required to complete a state form and show that you had insurance at the time of the accident. If you fail to file proof of financial responsibility, driving privileges will be suspended until proof can be shown. Suspension can last up to three years in such matters. You may also be required to pay a judgment against you for the injuries and property damages resulting from the accident.

If you have automobile liability insurance, the insurance company is obligated to defend you under the terms of the insurance policy. You should promptly notify your insurance agent of your accident. It's just plain smart to have insurance!!

MOTOR VEHICLE REGISTRATION AND MAINTENANCE

Motor vehicles used on the public streets and highways must be registered. The owner must be able to have proper title to the vehicle and obtain a Certificate of Title before registering the vehicle in Wyoming.

The license plates of a motor vehicle must be affixed to the vehicle and be kept clean, so that the numbers are visible. The current registration tabs must be visibly displayed on the plates, as well.

If a motor vehicle has faulty equipment, such as bad tires, bad muffler, or burned out lights, a police officer may stop the vehicle to inspect it and issue a warning or ticket. The defective equipment must be repaired immediately. Failure to do so may result in a fine. The driver of the vehicle is the person responsible and will receive the ticket, even if the vehicle does not belong to him.

This section of the handbook was not intended to give you a detailed explanation of all traffic and automobile laws. It was intended to give you an overview, with some general areas that you should be concerned about. If you have any questions about the law, ask a police officer or an attorney. Always drive on the side of caution if in doubt. It will save your life!

VIII. LAWS AFFECTING THE SCHOOLS

RIGHT TO EDUCATION IN WYOMING

The right to an education in Wyoming is supported by the Wyoming Constitution and the courts. Through the Constitution, the Legislature is charged with establishing and maintaining free public schools open to all children, devoid of discrimination based on sex, race or color. The Wyoming Supreme Court has reinforced the importance of education by finding that, "education for children of Wyoming is a matter of fundamental interest." Washakie County School District v. Hershler, 606 P.2d 310 (Wyo. 1980)

Public schools are mandated to operate a minimum of 175 days a year and to be free and accessible to all children, including any child with a mental, physical or psychological handicap who is over six years of age and under twenty-one. Schools have no obligation to educate a child after the student reaches age twenty-one. Natrona County School District No. 1 v. Ryan, 764 P.2d 1019 (Wyo. 1988)

Wyo. Con. Art.1 § 23; Wyo. Con. Art. 7 § 1; Wyo. Con. Art. 21 § 28; W.S. § 21-4-301; W.S. § 21-2-501

SCHOOLS AND DUE PROCESS

The Fourteenth Amendment to the Constitution of the United States says that a government may not "deprive any person of life, liberty or property without due process of law." Article 1 § 6 in the Constitution of the State of Wyoming states "no person shall be deprived of life, liberty, or property with due process of law." The principal, teachers, coaches, school security guards, and all other employees of the school are employees of the government. They therefore have a legal duty to provide you with due process of law.

But, what does due process really mean? Basically, due process means that a person must be treated fairly. When talking about school discipline, it means the school may not impose any serious punishment for alleged misconduct without first following certain established procedures to decide if you are in fact guilty.

In Goss v. Lopez, 419 U.S. 565 (1975), the United States Supreme Court held that a "student's legitimate entitlement to a public education (is) a property interest which is protected by the Due Process Clause and . . . may not be taken away for misconduct without adhering to the minimum procedure required by that Clause." The Court further said that "the Due Process Clause also forbids arbitrary deprivation of liberty. 'Where a persons's good name, reputation, honor or integrity is at stake because of what the government is doing to him,' the minimal requirements of the clause must be satisfied."

DISCIPLINE

School districts in Wyoming are authorized by the legislature to adopt reasonable forms of punishment and disciplinary measures. This includes dealing with students who are truant or absent from school. Statutes and policies on excessive absences from school are based on the state requirement that any child who is at least seven years old before September 15 of any year and who has not yet attained his sixteenth birthday or completed the eighth grade must attend school during the time that school is in session, unless excused by the school board.

A habitual truant is defined as any child with five or more unexcused absences in any one school year. When the board of trustees of the school district determines a child to be a habitual truant the District attorney shall then initiate proceedings under the Juvenile Court Act.

W.S. § 21-4-308; W.S. § 21-4-101; W.S. § 21-4-102; W.S. § 21-4-107

Wyoming Statute § 21-4-306 says that the following "shall be grounds for suspension or expulsion of a child from a public school during the school year:"

(i) continued willful disobedience or open defiance of authority of school personnel;
(ii) willful destruction or defacing the school property;
(iii) any behavior which in the judgment of the local board of trustees is clearly detrimental to the education, welfare, safety or morals of other pupils;
(iv) torturing, tormenting, or abusing a pupil or any way maltreating a pupil or a teacher with physical violence."

Wyoming Statute § 21-4-305 discusses the authority and procedure for suspension or expulsion. That section says that the Board of Trustees of any school district may delegate authority to disciplinarians chosen from the administrative and supervisory staff to suspend any student from school for a period not to exceed ten school days. The disciplinarian must provide the student with oral or written notice of the charges against him/her and an explanation of the evidence the authorities have. The student then has an opportunity to be heard and present his version of the charges against him.

The Board of Trustees of a school district may suspend a student for a period exceeding ten days or may expel a student for a period not to exceed one school year if the student is given an opportunity for a hearing according to the procedures of the Wyoming Administrative Procedures Act (§§ 16-3-101 - 16-3-115).

SEARCH AND SEIZURE IN SCHOOLS

The Fourth Amendment to the United States Constitution and Article 1 § of the Constitution of the State of Wyoming provide protection against unreasonable searches. Except in limited circumstances, searches and seizures should not be conducted without a warrant. A warrant shall not be issued unless it is based upon probable cause.

The question most students have, however, is: Do I really have any constitutional rights as a student? The answer to that question is a qualified "yes." In New Jersey v. T.L.O., 469 U.S. 325, 106 S. Ct. 733 (1985) the United States Supreme Court held that students do not leave their constitutional rights at the school door step. However, the Court also stated that school officials must have a certain amount of flexibility to maintain discipline in the school. Therefore, the Supreme Court did not require the school officials to follow the Fourth Amendment warrant requirement in searching a student's purse.

In New Jersey v. T.L.O. the Supreme Court established a "reasonableness test" to determine whether a search was reasonable. In order to justify a search there must be a reasonable suspicion that evidence of an offense will be found and the actual extent of the search must be related to the circumstances which justify the original search. The search must not be "excessively intrusive in light of the age and sex of the student and the nature of the infraction." However, reasonableness test must be applied on a case by case basis. This means there is no "bright line" between what is and is not reasonable.

DRUG TESTING THROUGH URINALYSIS

One federal court has uphold random drug testing of school athletes under the school's need to prevent drug related injuries. Schaill by Kross v. Tippecanoe County School Corp., 864 F.2d 1309 (7th Cir. 1988). However, drug testing through urinalysis of students in extraordinary circumstances exist to justify this type of suspiciousless testing. Brooks v. East Chambers Consol. Independent School Dist., 730 F.Supp 759 (S.D.Tex. 1989)' aff'd, 930 F.2d 915 (5th Cir. 1991)

STUDENT LOCKERS

Students may have a reasonable expectation of privacy in their school lockers, In Interest of Dumas, 515 A.2d 984 (Pa. Super. 1986) but this may depend on the school's policy concerning whether student's have been notified that searches of school lockers may be a possibility. Com. v. Carey, 554 N.E.2d 1199 (Mass. 1990). The United States Supreme Court has not decided the question of reasonable expectation of privacy in lockers and desks.

STUDENT AUTOMOBILES

Search of student automobiles for drugs may be permitted if the search is supported by reasonable suspicion, the school has a great interest in controlling a serious problem with drug usage and if there is concern that the vehicle may be removed from the school grounds. Shamberg v. State, 762 P.2d 488 (Alaska App. 1988); People in Interest of P.E.A., 754 P.2d 382 (Colo. 1988); State v. Slattery, 787 P.2d 932 (Wash. App. 1990).

STRIP SEARCHES

Though strip searches have not been prohibited, they must be reasonable in light of the age, sex and alleged misconduct of the student. New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed. 2d 720 (1985). Recently a search for drugs on a student requiring her to remove her T-Shirt and lower her jeans was permitted as based on reasonable suspicion. Williams by Williams v. Ellington, 936 F.2d 881 (6th Cir. 1991).

FIRST AMENDMENT
EXPRESSION

Perhaps the most important of all rights guaranteed in our society is the right to express our opinion about problems and issues that affect us. That right is just as important for students as it is for adults.

According to the First Amendment to the United States Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to partition the government for a redress of grievances." By its terms, the First Amendment applies only to Congress. The Supreme Court has, however, held that the Fourteenth Amendment to the United States Constitution makes the First Amendment applicable to the states. Article 1 §20 of the Constitution of the State of Wyoming provides for freedom of speech and the press.

The United States Supreme Court in Tinker v. Des Moines Independent School District, 393 U.S. 503 (1969), held that students do not lose their right to free expression under the First Amendment when they enter school. In Tinker, students were forbidden by school officials to wear black arm bands in school to protest the war in Vietnam. The Supreme Court's decision does not merely protect arm bands, but applies generally to other means in expressing views.

CLOTHING

The United States Supreme Court has held that clothing may also be considered a form of expression and therefore protected under the first amendment. (See the Tinker case, discussed above.) The question often arises whether a school can have rules regarding a student's clothing.

As a general rule a school may prescribe reasonable rules relating to the clothing worn by students. Because of Tinker and other cases, however, it is clear that clothing is covered as expression under the First Amendment. Therefore, some courts have insisted that a school clearly prove the rule is required to prevent disruption of the educational process.

The area of clothing in the schools has become one of increasing concern because of gang and gang related activities. Many School boards are now adopting rules which prohibit wearing certain clothing items as being "gang related." The United States Supreme Court has not yet ruled on this issue. The Federal Court in the Northern District of Illinois, has however had the opportunity to review a gang related clothing rule. In Olsen v. Board of Education, 676 F. Supp 820 (N.D.Ill. 1987) the court upheld a rule which prohibited students from wearing, possessing, using, distributing, displaying or selling any clothing, jewelry, emblem, badge, symbol, sign or other things which evidence membership or affiliation in any gang. If the school board can show that gang related activities is a problem and disrupt the education process, it is likely the United States Supreme Court will uphold such regulations.

FREEDOM OF SPEECH

Although students gained the right in Tinker to wear arm bands to school as a symbolic means of political protest the court made it clear, however, that the First Amendment does not mean students are free to disrupt the classroom and claim freedom of speech. Where the alleged speech or political expression materially and substantially interferes with the requirements of appropriate discipline in the operation of the school, the school has the right to control that expression.

A student who delivered an election nomination speech for a fellow student which contained obscene and vulgar references was found by the United States Supreme Court not to be protected by the First Amendment's right to free speech and was suspended. The student's conduct was found to substantially interfere with the educational process. The school board has the right to determine what manner of speech is inappropriate on the school grounds. Bethel School District No. 403 et al, v. Fraser, 478 U.S. 675 (1986).

FREEDOM OF ASSOCIATION

Freedom of association is protected by the First Amendment but has some restrictions in the school setting. A student who attended a party at which alcohol was served in violation of school regulations was suspended from the swim team. This suspension was not found to be in violation of her right to association. Bush by and through Bush v. Dassel-Cokato Bd. of Educ., 745 F.Supp 562 (D.Minn. 1990).

FREEDOM OF THE PRESS - SCHOOL NEWSPAPERS

After Tinker, many courts believed that censorship of school newspapers was impermissible. The United States Supreme Court, however, had a different view in Hazelwood School District v. Kuhlmeier, 484 U.S. 266, 108 S.Ct. 562, 98 L.Ed. 2d 592 (1988). This case upheld the power of school officials to control the content of school financed newspapers.

As a result of the Kuhlmeier decision, school officials now may censor stories in official school publications as long as, in the words of the Supreme Court, "their actions are reasonably related to the legitimate pedagogical concerns." According to the Court one appropriate concern of school officials is that readers "are not exposed to material that may be inappropriate for their level of maturity." In the Kuhlmeier case, one of censored articles was about students' experiences with pregnancy. The school principal said that the articles' references to sexual activity and birth control were inappropriate for some younger students at the school.

RELIGION

The First Amendment erects a barrier between church and state. This part of the First Amendment is often called the Establishment Clause. The Fourteenth Amendment of the United States Constitution has made the First Amendment applicable to the states. Article 1 §§ 18 and 19 of the Wyoming Constitution provide similar barriers between the state and religion.

In Everson v. Board of Education, 330 U.S. 1, 67 S.Ct. 504, 91 L.Ed. 71 (1947), the United States Supreme Court held that both Federal and State governments are prevented from setting up a church, passing laws that aid one or all religions or prefer a one religion over another. The First Amendment was intended to erect "a wall of separation between church and state" and thus neither the Federal nor State Government can involve itself in the activities of religious organizations. Likewise, religious groups are prohibited from interfering in government affairs.

To decide whether an action violates the Establishment Clause of the First Amendment, the United States Supreme Court in Lemon v. Kurtzman, 403 U.S. 602, 91 S.Ct. 2105, 29 L. Ed. 2d. 745 (1971), provided a three pronged test. Under the Lemon test three criteria are to be considered. First, the statute or action must have a secular legislative purpose; second, the principal or primary effect must be one that neither advances nor inhibits religion; and third, the statute must not foster any excessive government entanglement with religion.

This test was applied by the Supreme Court in Lee v. Weisman (1992) where, in a 5-4 decision the court ruled that the inclusion of New Sectarian Prayer offered by members of the clergy at a public secondary school graduation violated the Establishment of the First Amendment.

SCHOOLS AND EQUAL PROTECTION

The Fourteenth Amendment to the Constitution of the United States says that a state shall not deny to any person within its jurisdiction the equal protection of the laws. Article 1 §3 of the Constitution of the State of Wyoming provides equal political rights for its citizens. Most frequently as a student you will see the idea of equal protection come into play concerning sex or racial discrimination.

You have the right not to be discriminated against in school because of race, religion, or ethnic background. Racial segregation within the public schools has been a major political and legal concern of the nation since 1954. In Brown v. Board of Education, 347 U.S. 483 (1954) the Supreme Court ruled that separate schools for different races were by definition not equal. Therefore segregated public schools violated the equal protection clause of the Fourteenth Amendment.

The Fourteenth Amendment, the Wyoming Constitution, and other federal laws, prohibit schools from discriminating against students because of sex. In Title IX of the Education Amendments of 1972, Congress prohibited all types of sex discrimination in education programs that receive federal funds. 20 U.S.C. §1681. Because most public school programs do not receive federal funds, Title IX does not directly apply to them. Instead a challenge to sex discrimination in a public school would normally be made on constitutional grounds. The provisions of Title IX are still important to public school students, however, because it is unlikely any court would uphold as constitutional a practice specifically outlawed by Title IX.

SEXUAL HARASSMENT

A very recent decision by the United States Supreme Court had permitted a student to sue a school district teacher under Title IX of the Education Amendments of 1972 for continual sexual harassment and abuse and receive a monetary award. Franklin v. Gwinnett County Public Schools, Nol 90-918.

IX. FAMILY LAW

There are many laws which affect how people live together in Wyoming. Though some decisions like getting married or raising a family may seem a long way off, other decisions may be right around the corner. You should be aware of the various laws which affect how you will live as a husband/wife, parent, or divorced person.

MARRIAGE

Wyoming defines marriage as "a civil contract between a male and a female person to which the consent of the parties capable of contracting is essential." W.S. § 20-1-101 (1987)

Wyoming law requires that:

1. You must secure a marriage license from the county clerk's office before getting married.
2. Before receiving a marriage license, every female under the age of 45 and capable of bearing a child must have a blood test to determine rubella immunity and Rh type.
3. You must be 19 years old or older in order to get married without your parent's consent.
4. If you are 16, 17, or 18 you must have the consent of either a parent or guardian in order to marry.
5. If you are under 16, you cannot be married in Wyoming unless a judge approves the marriage and authorizes issuance of a marriage license.
6. Wyoming does not authorize common law marriages. Common law marriages are those in which the parties fail to obtain a marriage license and, instead, simply agree to marry and then cohabit. Wyoming does recognize common law marriages that legally occur in another state.
7. A marriage can be performed ("solemnized") by a district or county court judge, district court or county court commissioner, justice of the peace, or any licensed or ordained minister of the gospel. No particular ceremonial form is required, but the couple must solemnly declare (within the presence of the person performing the ceremony and at least two witnesses) that they are taking each other as husband and wife.
8. After the marriage ceremony, a marriage certificate must be recorded with the county clerk. The certificate must indicate the names, ages and residence of the married parties and it also must be signed by the witnesses and the person who performed the ceremony.
9. When a minor marries, he becomes "emancipated" and his parents are no longer responsible for his support.
10. Bigamy is being married, knowing that your spouse is alive, and marrying again. Bigamy is a felony and, if found guilty, a person may be fined

$5,000 and/or imprisoned for five years. You must get an annulment or a divorce before marrying again.

ANNULMENT

It is more difficult than most people think to have a marriage annulled. A marriage can be annulled only if the original marriage was defective or prohibited by law. Examples of marriages that might be annulled include those entered into when: one or both of the parties is already married; either party is mentally incompetent at the time of the marriage; the parties are first cousins or closer in relationship; the consent to marry was obtained by force or fraud and there was no subsequent voluntary cohabitation; and either party was 18 or younger at the time of the marriage, no consent was given by a judge and there was no cohabitation after age 19.

When there are grounds for annulment, the same general procedures used for obtaining a divorce are used to dissolve the marriage.

DIVORCE

"A divorce may be decreed by the district court of the county in which either party resides on the complaint of the aggrieved party on the grounds of irreconcilable differences in the marital relationship." W.S. § 20-2-104 (1987).

In Wyoming, grounds for divorce are essentially "no-fault"--however, the statute requires one of the parties to be aggrieved (having been "injured" or "harmed"). Also, although "fault" need not be proved for granting a divorce, "fault" may be considered in other related areas of divorce, e.g. property division and child custody.

A separate statutory provision permits divorce when one party has become incurably insane and has been confined in a mental hospital for at least two years.

Divorce terminates a valid marriage; annulment declares that a valid marriage never took place because of an impediment at the time of the marriage ceremony.

If a minor marries, he/she need parental permission. If a minor divorces, under the Emancipation Statute he/she can sue for divorce without parental consent.

A plaintiff in a Wyoming divorce proceeding must: (1) reside in the state for sixty (60) days immediately preceding filing; or (2) have been married in the state and have resided here since the marriage.

A divorce may not be granted less than twenty (20) days from the date the complaint is filed.

Alimony is intended to provide a substitute for the support provided to a spouse during the marriage. Alimony may be awarded to either party. Before awarding alimony, the court must consider the paying spouse's "ability to pay" and the receiving spouse's "need for support." Alimony is generally not favored in Wyoming -- courts prefer to settle differences through a one-time property settlement or division rather than an extended period of periodic monthly payments.

In dividing marital property, a court will consider whether the disposition appears to be "just and equitable." That does not mean that property division will necessarily be "equal."

Unlike child custody, child support and alimony, once a property settlement is reached it is final and cannot be modified or changed at a later date.

CHILD CUSTODY

In determining child custody, a court will consider many of the following factors:

1. The best interest of the child(ren) (this is primary factor considered by a court in determining custody).
2. The relative competency of both parents (but custody will not be decided solely on the basis of gender of the parent).
3. The preference of the child.
4. The relationship of the child to both parents.
5. The physical, mental and emotional capacity of each party.
6. Cultural and educational needs.
7. The moral behavior and emotional capacity of each parent.
8. Each parent's respect for freedom of religion.

When determining the weight to be given to a child's preference for a particular parent, a court will consider:

1. The age of the child.
2. The reason for the preference.
3. The relative fitness of the preferred and nonpreferred parent.
4. The hostility, if any, of the child to the nonpreferred parent.
5. The preference of other siblings.
6. Whether the child's preference has been tainted or influenced by one parent against the other.

A court can find a parent in contempt for a willful violation of the court's decree as to child custody, visitation and maintenance. The penalties for being in contempt of court may include paying a fine or being imprisoned.

Custody arrangements may be modified "as the circumstances of the parents and the benefit of the children requires." W.S. § 20-2-113(a)

CHILD SUPPORT

Child support amounts must be determined in accordance with statutory guidelines adopted by the Wyoming legislature. For the most part, support amounts are calculated as a percentage of the paying parent's net income. For example, a parent obligated to support two children and having a net income of $2,000 per month will pay 29% of his net income ($580 per month) to the parent having physical custody. While there are some provisions for a court to deviate from the guideline amounts, deviations are permitted only when the court makes a specific finding that application of the guidelines would be unjust or inappropriate in a particular case.

Child support obligations are enforced with the assistance of the clerk of the district court and the department of family services. Interest is assessed on late payments and support payments may be withheld directly from an employer (i.e., one's salary will be garnished) if payments are not made on time.

EMANCIPATION OF MINORS

"Emancipation" means conferral of certain rights of majority upon a minor. An "emancipated minor" includes a minor who: is or was married; is in the military service of the United States; or, has received a declaration of emancipation.

An individual reaches the age of majority and with the exception of the right to drink alcohol (21), acquires all rights and responsibilities of adulthood upon becoming eighteen (18) years of age. A "minor" is any individual under the age of majority.

"A minor may consent to health care treatment to the same extent as if he were an adult when:

1. The minor is or was legally married.
2. The minor is in the active military service of the United States.
3. The parents or guardian of the minor cannot with reasonable diligence be located and the minor's need for health care treatment is sufficiently urgent to require immediate attention.
4. The minor is living apart from his parents or guardian and managing his own affairs regardless of his source of income.
5. The minor is emancipated under W.S. 14-1-201 through 14-1-206." W.S. § 14-1-101(b) (June 1991).

A person who is at least eighteen (18) years of age may consent to donate blood.

A minor may apply to a district court for a declaration of emancipation if he is at least seventeen (17) years of age and meets each of the following requirements: willingly living separately and apart from his parents; his parents consent to or acquiesce in the separate living arrangement; he is managing his own financial affairs; and the source of his income is not derived from means declared unlawful under state or federal law.

When a minor is emancipated, he will be recognized as an adult for purposes of: entering into a binding contract; suing and being sued; buying or selling real property; establishing a residence; and being liable under the criminal laws of this state. Emancipation terminates parental support and control of the child in addition to terminating parental tort liability for the minor. (Parental tort liability means that a property owner is entitled to recover up to $2,000 from the parents of children between the ages of ten (10) and seventeen (17) who maliciously and willfully damage or destroy property).

For a $2.00 fee, an emancipated minor may apply to the department of transportation for indication of his emancipated status on his Wyoming driver's license or identification card.

An emancipated minor is subject to jurisdiction of adult courts for all criminal offenses.

ABORTION FOR MINORS

For purposes of Wyoming's abortion laws, a "minor" is a pregnant woman under the age of eighteen (18) but does not include any woman who: is legally married, is in active military service, or has lived apart from her parents or guardian, has been financially independent and has managed her own affairs for at least six (6) months prior to a proposed abortion.

Generally, an abortion may not be performed upon a minor unless at least one (1) of the minor's parents or her guardian are notified in writing at least forty-eight (48) hours before the abortion, and the attending physician has obtained the written consent of the minor and at least one (1) parent or guardian. Exceptions may be made if the minor is given the right to self-consent to an abortion by a juvenile court or if the court authorizes an abortion as being in the best interest of the minor. W.S. § 35-6-118 (June 1991). The law does not apply in an emergency medical situation when, "to a reasonable degree of medical probability, the attending physician determines that an abortion is necessary to preserve the minor from an imminent peril that substantially endangers her life." W.S. § 35-6-118(c) (June 1991).

A parent, guardian or spouse shall not require a minor to submit to an abortion against her wishes. W.S. § 35-6-118(e) (June 1991).

PARENTAL RIGHTS

There are several different ways in which a man will be presumed to be the natural father of a child; they include: (1) when he and the natural mother are or have been married and the child is born during the marriage or within 300 days after the marriage is terminated; (2) when he and the natural mother attempted unsuccessfully to marry before the child's birth; (3) when he married or attempted to marry the natural mother after the child's birth and he either:

1. Acknowledged his paternity in a writing filed with the state office of vital records.
2. Consented to being named the father on the child's birth certificate.
3. Is obligated to support the child under a written voluntary promise or by court order.
4. Receives the child into his home and openly holds out the child as his natural child while the child is under the age of majority. W.S. § 14-2-102(a).

Wyoming statutes spell out in detail when a child, his natural mother, a man presumed to be his father and others may bring an action to establish the existence or nonexistence of a father/child relationship (paternity). They also dictate when a paternity action may be brought when there is no presumed father. A court may order genetic test (generally consisting of blood or tissue samples) of the child, natural mother and alleged father.

A parent-child relationship may be terminated if one of the following facts is established by clear and convincing evidence:

1. The parent has not supported and has not communicated with the child for at least one (1) year (occasional contributions and incidental contacts or communications may be ignored by the court).
2. The child has been abandoned without identify for three (3) months and no parents can be found.
3. The child has been abused or neglected by the parent and the family cannot be or refuses to be rehabilitated--thus jeopardizing the child's well-being.
4. The parent is incarcerated due to a felony conviction and is unfit to have custody and control. W.S. § 14-2-309(a) (1986).

Termination of parental rights may be accomplished in Wyoming either by a termination proceeding or by entry of a final decree of adoption.

ADOPTION

Any adult residing in the state for sixty (60) days preceding the filing of a petition for adoption and who is a fit and competent person may adopt. Written relinquishment of custody and written consent to adoption are generally required of both natural parents. Consent to adoption must be signed after the birth of the child. Consent and relinquishment are irrevocable (permanent) unless obtained by fraud or duress or unless the court denies the adoption on account of a claim or objection of the putative father (the alleged or reputed father of a child born out of wedlock). The consent or relinquishment by a parent who is a minor is valid and may not be revoked solely because of minority.

Adoption is permitted without the written consent of a parent if (among other reasons) the nonconsenting parent: has failed to appear at a hearing after being given notice; has been judicially deprived of parental rights; has willfully abandoned or deserted the child; has willfully failed to contribute to the child's support for one year immediately prior to the adoption proceeding; has been adjudged by a court to be guilty of cruelty, abuse, neglect or mistreatment of the child; or caused the conception of the child born out of wedlock as a result of sexual assault or incest for which he has been convicted. Adoption is also permitted without the written consent of the putative father if he is unknown.

Once a final decree of adoption is entered, the former parent(s), guardian, or putative father shall have no control or custody of the child. The adopting parents shall have all of the rights and obligations respecting the child as if they were the natural parents.

An adopted child's medical history as well as the medical history of the child's natural parents (with identifying information eliminated) may be provided at any time following the adoption. The history shall include all available information regarding hereditary diseases and conditions, any drugs or medications taken by the mother during pregnancy, and any other information which may be a factor in determining the child's present or future health.

DOMESTIC VIOLENCE

A victim of domestic abuse (defined as "physical abuse, threats of physical abuse or acts which unreasonable restrain the personal liberty of any household member by any other household member") may petition the court for a protection order. The victim and the perpetrator (respondent) must both be 16 years old for the Wyoming Domestic Violence law to apply. The court will grant a temporary order of protection if it appears that there exists a real danger of further domestic abuse. The protection order may be effective for up to three (3) months. The court order may incorporate a variety of temporary protective provisions including: granting sole possession of the residence to the petitioner; preventing contact between the parties; prohibiting the abduction or concealment of any children; preventing the transfer or concealment of property; ordering professional counseling; awarding temporary custody and/or support; and, ordering the payment of medical costs incurred as a result of the abuse.

If the court issues the protection order, both the victim (petitioner) and perpetrator (respondent) will be ordered to stay away from each other for up to 90 days. If either party (or both) violates this "stay away" order, he or she will be placed in jail for failure to obey the court order (contempt of court). Only those who are very sincere about keeping the other party away should petition the court for a protective order.

GLOSSARY

Law requires those who would know it to understand its basic terms.

abandonment: giving up property or a right with no intentions of every reclaiming it again in the future. A common ground for legal separation when one spouse leaves the other without any intention to return.

abuse: to make excessive or improper use of a thing(s) or to employ it in a manner contrary to the nature or legal rules for its use.

acceptance: the agreeing to an offer and becoming bound to the terms of a contract.

accessory before the fact: a person who knowingly assists in the commission of a felony.

actus reus: guilty act.

adjudication: settlement of a legal issue by proper court.

adult: a person 18 years or over.

affidavit: a written statement made under oath before a notary public or other proper authority.

aggravated assault: when one person threatens another with a deadly weapon.

aggravated assault and battery: is committed when serious bodily injury is intentionally, knowingly or recklessly caused to another; when a person attempts to cause or causes bodily injury to another with a deadly weapon; when a person threatens to use a drawn deadly weapon where not necessary in defense of persons or property; or when bodily injury is intentionally, knowingly or recklessly caused to a woman whom the actor knows is pregnant.

aggravated burglary: in the course of committing burglary the person is or becomes armed with a deadly weapon or simulated deadly weapon; or knowingly or recklessly inflicts bodily injury upon another person; or attempts to inflict bodily injury upon another person.

aggrieved: having been "injured" or "harmed".

alimony: is intended to provide a substitute for the support provided to a spouse during the marriage.

annul: to declare something legally invalid such as a marriage.

annulment: an action by the court to dissolve a marriage, declaring that it never existed.

answer: a document which the defendant in a civil lawsuit serves on the plaintiff or his attorney in answer to the summons and complaint.

appeal: the proceeding by which a party to a lawsuit defeated in a lower court applies to a higher court to get a review of the decision in the lower court.

appellant: the party who appeals the decision of a lower court.

appellee: the party who argues, on appeal, against overturning the judgment of a lower court.

arbitration: a proceeding agreed to in previous agreement in which both parties to a controversy submit their dispute to persons designated or to be chosen.

arraignment: the calling of the defendant in a criminal case before the court to answer the charges in the indictments and plead guild, not guilty, or no contest.

arrest: the legal seizure and restraint of a person charged with a crime.

arson: the deliberate and malicious burning of property.

assault: an intentional physical attack, or the threat of attack with the apparent ability to carry it out so that the victim feels in danger of physical harm.

attachment: the taking into custody of the law of the person or property of one already before the court, or one who it is sought to bring before the court.

attempt to commit the crime: when a person who intends to commit a crime does an act which is a substantial step toward commission of the crime.

bail: security given to a court in exchange for the release of a person in custody to assure his presence in court later.

bankruptcy: procedures used by the court under the Federal Bankruptcy Act to liquidate the assets of one in debt in order to pay off his creditors.

battery: an act of intentional and unlawful physical contact on a non-consenting person.

bigamy: the criminal act of being married to more than one person at the same time.

binder: a preliminary agreement used in insurance and real estate transactions.

blackmail: committed if, with the intention of obtaining property of another or causing another to do an act against his or her will, a person threatens bodily injury or injury to the property of another, or threatens to accuse another of a crime or disgraceful immoral conduct.

bond: a promise to pay a certain amount of money if damages occur.

breach: to break a law, a contract, etc.

burglary: a crime committed by a person who breaks into and enters the premises of another without consent and with intent to commit a crime.

causation: often called proximate cause, means there is a connection between the breach of duty and the harm to another.

caveat emptor: "Let the buyer beware."

challenge: the right of a party to a lawsuit to object to a juror during the selection of the jury before the trial.

change of venue: where a fair trial is impossible in a certain location because of prejudice against the defendant, the case may be transferred to a different location.

charge: the formal accusation of a crime.

chattel: any tangible moveable thing.

child abuse: committed when a physical or mental injury is intentionally or recklessly inflicted upon a child under 16 by a person at least 6 years older than the child.

CHINS: acronym for children in need of supervision.

citation: an official summons to appear in court.

civil action: a legal case involving a dispute between two or more persons over a contract or property point of law or wrongful act against an individual (tort). The court decides who is right and wrong and orders a judgement for monetary damages.

civil contempt of court: the failure to do something which is ordered by the court for the benefit of another party to the proceedings.

civil procedure: the legal rules followed in a civil law suit.

codify: the law is written as a statute and placed along with all other statutes in books called the Wyoming Statutes.

common law: the body of law which was accumulated and collected from the decisions of the English courts and adopted as the basis of law in this country.

common law marriages: are those in which the parties fail to obtain a marriage license and, instead, simply agree to marry and then cohabit.

complaint: a formal charge made against a person to an appropriate officer or court.

consideration: something of value given in return for a performance or the promise of performance by another for the purpose of forming a contract.

conspiracy: an overt act toward the commission of the crime.

constitutional: an action that fits within the boundaries of the U.S. Constitution.

contempt: the disobedience of the rules, orders and processes of the court or legislative body.

contempt of court: any act to embarrass, hinder, or obstruct the court in the administration of justice.

contract: when one person agrees to do or not to do a particular thing in consideration for another person's agreement to do or not to do something, they have made a contract. Contracts often involve payment of money by one party in exchange for services or goods from another.

contract law: law which applies to agreement between different parties.

controlled substance: a drug or substance used in the manufacture of a drug or substance as defined by the laws of Wyoming.

conviction: the verdict of guilty by a jury in a criminal proceeding, or the final judgment of guilt by a court.

counsel: a lawyer.

count: where more than one crime is charged, each crime should be listed in a separate paragraph.

credit card fraud: a person who, with intent to defraud another, uses a credit card without authority, or which is revoked, cancelled or expired, or which is falsified or altered.

crime: a deliberate or negligent violation of the law, a wrongful act against society punishable by fine or imprisonment or both.

criminal contempt of court: acts in disrespect of one court which obstruct the administration of justice.

criminal defense: a denial by the defendant which attacks the existence of some element of the prosecutors case and/or which is offered to justify or excuse the commission of the crime.

criminal procedure: legal rules followed by the court in a criminal case.

criminally negligent homicide: the death of a person caused by criminal negligence.

cross-examination: the questioning of a witness by the adverse party.

culpable: blamable; censurable; involving the breach of a legal duty or the commission of a fault.

custody: control.

damages: compensation in the form of money which may be recovered in the courts by an person who has suffered loss, detriment, or injury through the unlawful act or omission, or the negligence of someone else.

decedent: used in wills and estates to denote the deceased person whose estate is involved.

decree: a formal determination of a court, usually made in writing.

deed: a document which transfers ownership to real estate.

defamation: a statement made orally or in writing which injures a person's reputation in the community.

default: when a person neglects to answer a claim that he owes money.

defendant: the person against who recovery is sought in a lawsuit or the person charged with a crime.

delinquent act: an act punishable as a criminal offense.

dependent: one who derives support from another.

deposition: a sworn written statement made under oath with both sides present with . the right of cross examination in a court of law.

detention: holding in custody.

devise: a grant or transfer of real estate by will.

disability: the lack of legal capacity to do a certain act.

disorderly conduct: when a person endangers his community with behavior such as drunkenness, fighting or mob activity.

disposition: a sentence given or treatment prescribed for a juvenile offender.

disturbing the peace: breach of peace; when a person bothers his neighbors, usually by making too much noise.

diversity of citizenship: where suits are brought by a citizen of one state against a citizen of another state.

domicile: the place of permanent residence of an individual.

due process: the proper order of legal proceedings carried out according to rules established by law.

duress: unlawful constraint exercised upon a man whereby he is forced to do some act that he otherwise would not have done.

DWUI: driving while under the influence (alcohol or a controlled substance).

easement: the right of a landowner to use the land of his neighbor.

emancipate: to free a minor from the legal responsibilities of his parents.

eminent domain: the power of the government to take property for public use. In the United States this cannot be done without just compensation to the owner of the property.

employment at will doctrine: means that an employer can discharge an employee for any reason, or for not reason at all, without legal recourse.

employment law: law dealing with the relationship between employer and employee.

entrapment: where a person, who has no predisposition to commit a crime, is induced by law enforcement officials to commit the crime.

exculpatory evidence: evidence tending to show the defendant might not be guilty.

ex post facto law: designates an act to be a crime although it was not a crime when it was committed.

expulsion: the removal of a person from membership or participation in an organization, group, or institution such as a school.

expunge: to remove or to treat as being nonexistent; such as the court records of a juvenile offender.

extortion: the offense of taking money or property from a person by threat or duress or under pretense of authority.

false imprisonment: any unlawful restriction of a man's liberty.

felonious restraint: is committed when a person is restrained unlawfully under conditions exposing the person to risk of serious bodily injury, or is held in involuntary servitude.

felony: a serious crime punishable by death or imprisonment in the state penitentiary for one year or more.

felony murder: the killing occurs while the defendant is committing or attempting to commit a felony.

first degree arson: when a person maliciously starts a fire or causes an explosion, with intent to destroy or damage an occupied structure.

first degree murder: the killing of one human being by another which is done purposely and with premeditated malice

first degree sexual assault: sexual intrusion inflicted on a victim by force or by threats of death or immediate serious harm, or when the victim is physically helpless or mentally unable to understand what is occurring.

foreclosure: a proceeding whereby mortgaged property is applied to pay the mortgage debt upon the default of the debtor.

forgery: making or altering of a writing with the intent to defraud another person.

fourth degree sexual assault: committed when a victim is subjected to unlawful sexual contact.

fraud: intentional deception resulting in injury to another.

fraud by checks: when a person issues a check to obtain property or pay a debt, knowing that there are not funds in the bank to pay the check, and in fact the check is not paid by the bank.

fraudulent: conduct used in obtaining or using another's property by trickery, deceit or misrepresentation.

genetic test: generally consisting of blood or tissue samples of the child, natural mother and alleged father.

grand jury: a body of citizens who are called together to examine the facts of a case to determine whether or not an indictment (an arrest warrant) should be issued for criminal proceedings.

grand larceny: when a person steals personal property of another that is worth $100 or more.

guardian at litem: a guardian appointed by the court to represent a minor.

habeas corpus: a legal writ demanding that a prisoner by produced at a certain time and place in order that the judge may determine the course of action to take in his behalf. The granting of the writ generally results in the release of the prisoner.

The writ is generally used as a protection against the unwarranted arrest and detention of a person without just cause.

habitual truant: is defined as any child with five or more unexcused absences in any one school year.

hardship license: Under certain circumstances, a restricted license may be issued if you are at least 14 years old and can show "extreme inconvenience" under the certain requirements listed under the Wyoming statute.

impanel: the process by which jurors are selected and sworn in.

implied consent law: in Wyoming any person who drives an automobile on public streets or highways is considered to have given his consent to have his blood, breath, or urine tested for the amount of alcohol in it.

in loco parentis: in the place of a parent. (e.g. teachers).

in re: Gault: the Supreme Court case which decided that a juvenile must be represented by counsel at all stages of a juvenile proceedings.

inadmissible: that which, under the established rules of law, cannot be admitted or received.

incarcerate: to imprison.

incorrigible: one who is beyond reform.

indenture: a formal written agreement.

indictment: a written accusation against one or more persons charging a crime, prepared by the district attorney and approved by the grand jury. (An arrest warrant).

information: is "a plain, concise and definite written statement of the essential facts constituting the offense charged," which is signed by the prosecuting attorney.

initiative: with certain limitations, the people may propose and enact laws using a process called.

joy riding: unauthorized use of the vehicle of another person.

injunction: an order of a court which prohibits a named person from performing certain acts.

interference with custody: when a minor child is taken or enticed from the child's parent or lawful custodian, or if a child is not returned to a person entitled to custody.

involuntary manslaughter: when a person acts recklessly, causing the death of another person.

joint tenancy: when two or more people buy property together and own it in there names with "rights of survivorship".

jurisdiction: the legal authority to hear and determine legal issues occurring within a defined area.

juvenile: a person who has not attained his/her 18th birthday; Wyoming, 11-18 years.

juvenile delinquent: a person under 18 years of age who has broken a law and is prosecuted in juvenile court.

kidnaping: a person in unlawfully removed from the person's residence or place of business or from the vicinity where the person was found, or is unlawfully confined.

larceny: the defendant takes and carries, leads or drives away the property of another person with intent to deprive the owner or lawful possessor of the property.

lease: a contract whereby a person who owns property gives a lesser interest to someone else.

liability insurance: a type of coverage of insurance that pays for injuries to other people or damage to property if one insured is responsible for an accident.

liable: legally responsible.

libel: a written statement or picture that serves to injure the character or reputation of another person.

lien: a claim which a person has against the property of another which is in his possession.

livestock rustling: if a person steals "any horse, mule, sheep, cattle, buffalo or swine."

majority, age of: age 18 in Wyoming; legal age for managing one's own property and assuming rights and responsibilities of an adult.

malice: ill will intentionally harming someone.

mens rea: criminal intent.

mill: is a tenth of one cent (.1 of one cent).

minor: a person who has not yet reached the age of 18.

minority: a person younger that the age of majority.

Miranda: a U.S. Supreme "Court decision which holds that before a person in custody may be questioned by a law enforcement officer, the person must be advised of certain rights.

misdemeanor: any crime less that a felony, punishable by up to one year in jail.

municipality: a legally incorporated or duly authorized association of inhabitants of limited area for local government or other public purposes.

negligence: failure to exercise that degree of care which a reasonably prudent man would have exercised under same or similar circumstances in order to avoid an unreasonable risk of harm. Negligence is conduct which falls below the standard of that of a reasonable man in the same or similar situation.

nolo contendere: a plea of no contest (guilty without admitting guilt) to a charge.

offer: a definite proposal by one person to another to made a deal or contract.

oral: spoken not written.

ordinance: a law usually made by county or city officials.

original jurisdiction: the court which has primary authority to hear a case.

pardon: an act by the governor of a state, which releases a person convicted of a crime from punishment imposed by the sentence of a court.

parens patriae: when a court takes control as guardian.

parental tort liability: a property owner is entitled to recover up to $2,000 from the parents of children between the ages of ten (10) and seventeen (17) who maliciously and willfully damage or destroy property.

paternity: the existence or nonexistence of a father/child relationship.

perjury: willfully lying or omitting the truth while under oath.

permanent injunctions: court orders which last indefinitely.

personal property: any property that can be moved such as chairs, carts, desks, and books.

petit jury: a jury of 6-12 people.

petition: a formal written request.

plenary power: Congress can limit or abolish tribal government, but until it does, the tribe retains the right to be self-governed.

post-conviction relief: after a conviction has been affirmed on appeal, or no appeal is taken within the required time, a person may still be able to attack a criminal conviction if there has been "a substantial denial of his rights under the constitution of the United States or of the State of Wyoming."

preliminary hearing: a hearing held in County Court on felony charges to determine whether or not there is probable cause to believe that one defendant committed the crime charged.

premeditated: the defendant thought about killing the victim before doing the act that resulted in death.

presiding juror: member of a grand jury.

principal: the person who actually commits a felony.

probable cause: to believe that the charged offense has been committed and that the defendant committed it.

property destruction and defacement: a person knowingly destroys or damages the property of another.

property law: One special intentional relationship occurs when we buy land or a house.

putative father: the father of an illegitimate child.

quasi: in some limited sense.

real property: land and those things attached to land like houses.

real party in interest: the person entitled to the benefits of an action.

reasonable suspicion: that evidence of an offense will be found.

reckless endangering: a crime committed when a person recklessly engages in conduct which places another person in danger of death or serious bodily injury.

receiving stolen property: when a person buys, receives, conceals or disposes of property which he know, believes, or has reasonable cause to believe was obtained in violation of law.

referendum: the people may approve or reject acts of the Legislature.

remedies: the means by which a right is enforced or the violation of a right is prevented, redressed, or compensated.

res: actions that establish rights in relation to an object (such as property) as opposed to a person.

restitution: making good or giving equivalent for any loss, damage or injury.

retention: judges names are placed on the ballot and the voters determine whether they wish the judges to continue serving.

robbery: is committed if, while committing the crime of larceny, a person inflicts bodily injury upon another, or threatens another with or intentionally puts another in fear of immediate bodily injury.

runaways: unemancipated children who live away from home without the permission of parents.

second degree arson: involves setting a fire or causing an explosion with intent to collect insurance proceeds.

second degree murder: killing done purposely but without premeditation.

second degree sexual assault: when sexual intrusion is inflicted on a victim by use of threats of future death or serious bodily harm; where the victim is drugged; where the defendant knows that the victim mistakenly believes the defendant is the victim's spouse; where the defendant is in a position of authority over the victim, such as a guardian, relative, teacher or employer; or where the intrusion occurs as part of a feigned medical examination or treatment.

self-incrimination: giving evidence which might lead to criminal prosecution of oneself.

shoplifting: when a person steals or conceals goods from a store during business hours.

sole owner: to own property alone.

slander: an oral statement that serves to injure the character or reputation of another person.

solicitation: a person who commands, encourages or facilitates the commission of a felony with the intent that the felony be committed.

stalking: when a person, with intent to harass another engages in a course of conduct which is likely to cause substantial emotional distress and serious alarm.

statute: a law enacted by the state legislature.

statute of limitations: a period of time set by law after which legal actions cannot be brought before the courts.

statutory: enacted by statute.

subpoena: the process by which the attendance of a witness is required at a proceeding.

summons: criminal--the process by which the defendant is charged in a criminal case or the defendant being sued in a criminal case is voluntarily brought before the court by advising the defendant that there is a claim against him. If ignored, an arrest warrant is then issued.

civil--if the summons is ignored in a civil proceeding, the defendant is declared to be in default and is held monetarily responsible for the amount being sued.

surety company: a bonding company which becomes legally responsible for the failure of a person to fulfill his legal responsibility.

suspension: the temporary removal of a person from participation or membership in an organization, group, or institution such as a school.

temporary: existing for a limited time.

temporary injunction: is entered when the court has time to carefully review a situation and sets a period of time for a person to either do or not do something.

temporary restraining order: an order made by the court when there is an emergency, or when there is not enough time to look into the underlying problem without being harm done to one of the parties.

tenancy by the entirety: When a husband and wife buy property together and own it in both of their names "as husband and wife, with rights of survivorship" .

tenant in common: where property is held by several and distinct titles by unity of possession.

third degree arson: occurs when a person intentionally or recklessly starts a fire or causes an explosion which places another person in danger of bodily injury or destroys or damages property of a value of $200.00 or more.

third degree sexual assault: committed when a person at least 4 years older than the victim commits sexual intrusion upon a victim who is under 16 years of age.

title: the document which represents ownership in personal property.

tort: a private or civil wrong, or a socially undesirable act other that a breach of contract resulting in harm to a legally protected interest for which the courts will provide a civil remedy.

trespass: when a person makes an illegal intrusion upon real property (land and attached building) without permission.

truant: to be away from school during regular school hours without permission.

usury: excessive interest charged above the rate established by law. Generally, a lending institution may not charge in excess of 21% per annum interest.

vandalism: the wilful and malicious destruction or damaging of property.

vehicular homicide: the death of another person by a person who operates or drives a vehicle in a criminally negligent manner

venue: the place where a case is tried.

voidable: when something is capable of being judged invalid and of no force.

voir dire: the process in which opposing attorneys question potential jurors to try to get as favorable or impartial jury as possible.

voluntary manslaughter: when a person's intentional act causes the death of another, but the act was committed under a sudden heat of passion.

waivers: the act of giving up a known right.

ward: a minor who is subject to protection by a court or a guardian appointed by a court.

warrant: a process of a criminal court which authorizes search, arrest or seizure of persons or property.

writ: an official court document which requires something to be done or not done.

writs of certiorari: a written court order asking the Supreme Court to hear a case.

written contract: one which in all its terms is in writing between an employer and an employee.

END

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